रजिस्ट्री सं० डी० 221 REGISTERED No. D 221

भारत का राजपत्र
The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उपखण्ड (ii)
PART II—Section 3—Sub-section (ii)

सं० 71] नई दिल्ली, मंगलवार, मार्च 5, 1968/फाल्गुन 15, 1889
No. 71] NEW DELHI, TUESDAY, MARCH 5, 1968/PHALGUNA 15, 1889

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LABOUR, EMPLOYMENT & REHABILITATION

(Department of Labour and Employment)

NOTIFICATION

New Delhi, the 19th February 1968

S.O. 920.—In pursuance of section 17 of the Industrial Disputes Act, 1947 14 of 1947), the Central Government hereby publishes the following award of the Arbitrator in the industrial dispute between the employers in relation to the Reserve Bank of India and their workmen represented by the All India Reserve Bank Employees' Association which was received by the Government on the 19th February, 1968.

BEFORE THE HONOURABLE ARBITRATOR, SHRI T. L. VENKATARAMA AIYAR, RETIRED SUPREME COURT JUDGE

(Reference under Section 10A of the Industrial Disputes Act, 1947)

BETWEEN

The Reserve Bank of India

AND

Its workmen employees in Classes II and III.

APPEARANCES:

For the Reserve Bank of India—Shri N. V. Phadke, Advocate, instructed by Shri R. Setlur of Messrs. Crawford Bayley & Co., Solicitors.

For the workmen—(1) Shri K. T. Sule, Advocate, instructed by Shri Madan Phadnis, Advocate, for the All-India Reserve Bank Employees' Association.

(2) Shri C. L. Dudhia, Advocate, for the All-India Reserve Bank Karamchari Federation and for the Reserve Bank of India field Staff Association.

(3) Shri G. S. Gokhale, for the All-India Reserve Bank Workers' Organisation.

The above reference having come up for preliminary hearing on the 15th March 1967 and 20th March 1967 and for final hearing on 2nd, 3rd, 4th, 5th, 8th 9th, 10th, and 12th of May 1967, 15th, 16th, 19th, 20th, 22nd, 23rd, 26th, 27th, 28th, 29th, and 30th of June 1967, 3rd, 4th, 5th, 6th, 7th, 10th, 11th, 12th, 13th, 14th, 19th, and 20th of July 1967, 14th, 16th, 17th, 18th, 21st, 22nd, 23rd, 24th, 25th, 29th and 31st of August 1967, 1st, 5th, 6th, 8th, 11th, 12th, 13th, 14, 15th, 18th 19th, 20th, 21st, 22nd, 25th, 26th, 27th, 28th, and 29th of September 1967, 3rd, 4th, 5th, 6th, 9th, 10th, 11th, 16th, 17th, 18th, 19th, and 20th of October 1967, and having stood over for consideration till this day, the following Award is hereby given.

AWARD

CHAPTER I

Introductory

1.1. Disputes having arisen between the Reserve Bank of India, hereinafter referred to as the Bank, and its employees belonging to Class III and to certain categories in Class II as regards scales of pay, dearness allowance, terms of service, rules relating to disciplinary action and other similar questions, an agreement was entered into on the 24th January 1967 between the Bank and the All-India Reserve Bank Employees' Association, hereinafter referred to as the Association, as representing the majority of the workmen concerned, to refer the disputes to me as Arbitrator for adjudication. The said agreement specifies the points which are in dispute between the parties and form the subject matter of this arbitration. By notification S.O. No. 645 dated 15th February 1967, issued under Section 10A(3) of the Industrial Disputes Act, 1947, the Central Government published the said agreement in the Gazette of India dated 25th February 1967. The said notification is set out in Appendix 'A'. This was followed by a further notification S.O. No. 689 dated 25th February 1967 (*vide* Appendix 'B'), issued by the Central Government, under Section 10A(3A) of the Act read with Rule 8A of the Industrial Disputes (Central) Rules, 1957, published in the Gazette of India dated 25th February 1967. Under these provisions employers and workmen who are not parties to the arbitration agreement but are concerned in the disputes have to be given an opportunity of presenting their case before the Arbitrator.

1.2. After the publication of the notification aforesaid, notice of the preliminary hearing was given to the All-India Reserve Bank Workers' Organisation, hereinafter referred to as the Organisation, and the All-India Reserve Bank Karamchari Federation, hereinafter referred to as the Federation, who wanted to intervene in the proceedings, and they have appeared at all subsequent stages in the proceedings. During the pendency of the proceedings, an application was presented on behalf of another association called the Reserve Bank of India Field Staff Association, which is said to have been formed in June 1967, hereinafter referred to as the Field Staff Association to intervene and make their representation and this claim was ordered on 23rd June 1967.

1.3. On the 15th March 1967 there was a preliminary hearing at which directions were given to the Association, the Organisation, and the Federation, to file their respective statements of claim and to the Bank to file its answers thereto. The Field Staff Association has also filed its statement of demand and the Bank its reply thereto. All the unions have filed their statements of demand; the Bank has filed its reply to all of them and the unions have filed their rejoinders thereto.

1.4. A large number of documents have been filed by all the parties. The Association has filed exhibits A-1 to A-151; the Organisation exhibits O-1 to O-81; the Federation exhibits F-1 to F-69; the Field Staff Association exhibits X-1 to X-20; and the Bank exhibits B-1 to B-167. I should mention here that some of these exhibits are not, as in strictness they ought to be, purely evidentiary matter; they are comments and criticisms, by the several parties on the documents filed by the other parties or explanatory answers to such criticisms. They are really in the nature of written arguments but as all the parties have adopted this procedure as a matter of convenience, I have allowed it in view of the fact that these are arbitration proceedings.

1.5. The time for making the Award under the agreement would have expired on 24th June 1967 but by successive agreements entered into by all the parties and dated 2nd May 1967, 18th July 1967, 14th September 1967, and 9th January 1968, the time has been extended upto 15th February 1968.

1.6. It should be mentioned that after the arguments on behalf of the unions had concluded, an application was filed by the Federation for the grant of an interim relief pending the making of the Award. It appears that in December 1966 the Bank had already paid a sum of Rs. 200/- to the employees on account. In view of the pendency of the arbitration proceedings, I directed, by my Order dated 18th August 1967, that a further sum of Rs. 100/- should be paid to the employees on account. The Bank has complied with my Order. All these payments should be taken into account in working out the rights of the parties under this Award.

CHAPTER II

Historical

2.1. It is necessary now to narate the course of events forming the background of the present dispute. The Desai Award sets out in paragraphs 2.6 to 2.10 the material facts down to the date of reference in 1960. It will, therefore, be sufficient to refer to them briefly and then relate the subsequent events in so far as they are material for the present dispute.

2.2. Consequent on the abnormal rise in price of consumer commodities after the Second World War, there was a wide-spread demand among the employees of banks for revision of their pay scales. In 1946 the disputes of certain banking companies in Bombay and their workmen were referred to a Tribunal presided over by Mr. Justice Divatia who gave his Award on the 9th of April 1947. On the 13th June 1949 the Central Government constituted an all-India Industrial Tribunal and referred the disputes between the commercial banks and their employees to it for adjudication. This Tribunal was presided over by Shri K. C. Sen, a retired judge of the Bombay High Court and it gave its Award on the 31st of July 1950. By its judgement dated 9th April 1951, the Supreme Court declared this Award as void on technical grounds. The Central Government then constituted on the 5th of January 1952 another all-India Industrial Tribunal with Shri S. Panchapagesa Sastry, a retired judge of the Madras High Court as its President, to adjudicate on the disputes between the commercial banks and their employees, and it pronounced its Award in March 1953. Against the said Award there were appeals both by the banks and by their employees and by its judgement dated 28th April 1954, the Labour Appellate Tribunal modified the Award of the Sastry Tribunal in material particulars. Then there was a complaint by the banks that the Decision of the Labour Appellate Tribunal imposed burdens beyond the capacity of some of them and that it would adversely affect the banking industry. By an Order dated 24th August 1954, the Central Government modified, as a temporary measure, the decision of the Labour Appellate Tribunal in some respects and on the 17th of September 1954 constituted an One-Man Commission, presided over by Justice Shri Rajadhyaksha to go into the entire question. Shri Rajadhyaksha having died shortly thereafter, the Government appointed Justice P. B. Gajendragadkar, then a judge of the Bombay High Court, in his place. On the 25th of July 1955, the Gajendragadkar Commission sent its Report and this will hereinafter be referred to as the 'Report of the Bank Award Commission'. The recommendations of the said Commission were accepted by the Government and embodied in the Industrial Disputes (Banking Companies) Decision Act, 1955, and this remained in force till the 31st of March 1959.

2.3. Meantime, in 1957, the 15th Indian Labour Conference had been held and it had laid down certain general principles for fixation of wages. Its recommendations aroused the expectations of workmen who felt that the then existing level of wages was low. The Government of India had also appointed in August 1957, a Pay Commission presided over by Justice Shri Jagannadha Das to go into the question of revision of emoluments of the Central Government employees and it made its Report on the 24th of August 1959. On the 31st of March 1959 the period of operation of the Sastry Award as modified by the Bank Award Commission came to an end. Thereafter the All-India Bank Employees' Association started an agitation for revision of wages and eventually on the 21st of March 1960, the Government of India constituted a National Tribunal presided over by Justice Shri K. T. Desai of the Bombay High Court, and referred to it the disputes between the commercial banks and their employees for adjudication. This was Reference No. 1. The said Tribunal pronounced its Award on 7th June 1962.

2.4. The Reserve Bank had been, from time to time, itself revising the emoluments of its employees. There were such revisions as on 1st April 1946, 1st July 1947, 1st April 1948, 1st July 1948, June 1951, November 1951 and in March 1954. There were also conciliation proceedings in September 1954 and a settlement in October 1954. Then again there was a revision of the emoluments by the Bank on 1st January 1958 and again in February 1959. Later in 1959 the All-India Reserve Bank Employees' Association submitted a charter of demands and started an agitation for revision of the emoluments. On the 21st March 1960 the Central Government referred to the Desai Tribunal the disputes between the Reserve Bank of India and its employees also for adjudication. That is Reference No. 2. The said Tribunal pronounced its Award on 8th September 1962. The Association preferred an appeal against it to the Supreme Court, which, by its judgement dated 24th April 1965, dismissed the same subject to certain modifications.

2.5. By the middle of 1965 the period of operation of the Awards in the commercial banks' reference as also in the Reserve Bank's reference expired. During this period there had been a sharp rise in the working class cost of living index. In 1964, an expert committee known as the Lakdavala Committee was appointed by the Maharashtra Government to report on the rise in the consumer price index numbers and it found that the real rise in the index was greater than that shown in the published reports. Another expert committee was appointed by the Government of Gujarat to go into the working class consumer price index numbers in Ahmedabad and it also came to a similar conclusion. In view of the steep rise in the prices of consumer goods there was a strong demand followed by agitation on the part of the employees for revision of the scales. In August 1964 the commercial banks and the representatives of their employees entered into negotiations and agreed for the grant of an additional temporary dearness allowance equivalent to two slabs (*i.e.* 6 per cent.) as an interim measure. Then there were further negotiations between them and that resulted in a settlement on the 19th of October 1966 and this will hereinafter be referred to as the 'Bipartite Settlement'.

2.6. This is the background against which the present dispute in the Reserve Bank has to be considered. The All-India Reserve Bank Employees' Association presented its Charter of Demands to the Bank and there were negotiations for a settlement but no agreement was reached. Then, both the parties agreed that the disputes should be referred for arbitration under Section 10A of the Industrial Disputes Act, 1947, and that is how the matter comes before me.

CHAPTER III

Scales of pay and special pay

Labour Legislation:

3.1. In India as in England, there was a time when labour relations were governed by the ordinary law of contract and the employee had only such rights as he was entitled to under the terms of his agreement with the employer. But in course of time it came to be realised that workmen were not getting a fair deal owing to lack of bargaining power, and that it was, therefore, incumbent on the legislature to secure fair conditions of service for them. In pursuance of this policy, the Industrial Disputes Act, 1947, and the Minimum Wages Act, 1948 were enacted. The Constitution has now adopted this as a Directive principle, and enacted Article 43 providing that the State shall endeavour to secure by suitable legislation to all workers a living wage and conditions of work ensuring a decent standard of life.

3.2. It is this principle that now forms the basis for all industrial legislation and for adjudications of industrial disputes by tribunals. In the Hindustan Antibiotics Ltd. Vs. Their workmen (A.I.R. 1967 S.C. 948 at 954, 1967 I L.L.J. 114 at 120) the Supreme Court observed that the object of the industrial law was—"(i) to improve the service conditions of industrial labour so as to provide for them the ordinary amenities of life, and (ii) by that process, to bring about industrial peace which would in its turn accelerate productive activity of the country resulting in its prosperity." In the Standard Vacuum Refining Company of India, Ltd. Vs. Its workmen [1961 (1) S.C.R. 582, A.I.R. 1961 S.C. 895 at 899, 1961 I L.L.J. 227 at 232], *discussing the considerations which should* be taken into account in the decision of an industrial dispute, the Supreme Court observed: "The theory of 'hire and fire' as well as the theory of 'supply and demand' which were allowed free scope under the doctrine of *laissez faire* no longer hold the field. In constructing a wage structure in a given case industrial adjudication does take into account to some extent considerations of right and wrong, propriety and impropriety, fairness and unfairness." The principles which have to be observed in

settling a wage structure were considered in great detail by the Fair Wages Committee appointed by the Government of India and its Report dated 1949 forms the basis for adjudications of this question by the tribunals. It classifies wages into three categories:—

(i) The Minimum Wage,

(ii) The Living Wage, and

(iii) The Fair Wage.

The Minimum Wage:

3.3. The Minimum Wage is the wage required by a workman at the subsistence level, and it is well settled that it has to be paid, irrespective of the capacity of the industry to pay and that if an industry is not in a position to pay it, it must close down. Explaining the concept of Minimum Wage, the Supreme Court observed in the case of Kamani Metals & Alloys Ltd. *Vs.* Their workmen (A.I.R. 1967 S.C. 1175 at 1177, 1967 II L.L.J. 55 at 58): "Broadly speaking, the first principle is that there is a minimum wage which, in any event, must be paid, irrespective of the extent of profits, the financial condition of the establishment or the availability of workmen on lower wages. This minimum wage is independent of the kind of industry and applies to all alike big or small. It sets the lowest limit below which wages cannot be allowed to sink in all humanity." *See* also All-India Reserve Bank Employees' Association *Vs.* The Reserve Bank of India (A.I.R. 1966 S.C. 305, 1965 II L.L.J. 175). "There is", observed the Supreme Court in the Crown Aluminium Works *Vs.* Their workmen (A.I.R. 1958 S.C. 30 at 34. 1958, I L.L.J. 1 at 6) "one principle which admits of no exceptions *viz*., no industry has a right to exist unless it is able to pay its workmen at least a bare minimum wage."

Living Wage:

3.4. The Living Wage has been defined by the Fair Wages Committee as one that "should enable the male earner to provide for himself and his family not merely the bare essentials of food, clothing and shelter but a measure of frugal comfort including education for the children, protection against ill health, requirements of essential social needs, and a measure of insurance against the more important misfortunes including old age", (page 7, para. 7). The Directive Principle in Article 43 of the Constitution requires the State to endeavour to secure a Living Wage, and "this" it has been stated, "is the ideal to which our social welfare State has to approximate in an attempt to ameliorate the living conditions of the workers", [*vide* Express Newspapers (Private) Ltd., and another *Vs.* Union of India and others, 1959 (1) S.C.R. 12, A.I.R. 1958 S.C. 578, 1961 I L.L.J. 339 at 362). In the Standard Vacuum Refining Co. of India Ltd. *Vs.* Its workmen [1961(1) S.C.R. 582, A.I.R. 1961 S.C. 895, 1961 I L.L.J. 227 at 234] it was pointed out: "the concept of a Living Wage is not a static concept; it is expanding and the number of its constituents and their respective contents are bound to expand and widen with the development and growth of national economy". In the case of All-India Reserve Bank Employees' Association *Vs.* The Reserve Bank of India (A.I.R. 1966 S.C. 305, 1965 II L.L.J. 175 at 190) the Supreme Court observed: "It may thus be taken that our political aim is 'Living Wage', though in actual practice living wage has been an ideal which has eluded our efforts like an ever-receding horizon and will so remain for some time to come." The position, therefore, is that there is at the floor level the Minimum Wage, below which the employer cannot go, and at the other end is the Living Wage, which is the ceiling and represents a goal to be reached. In between the two, comes the wage structure which has to be settled and this is called the Fair Wage. It is not, and it cannot be, claimed on behalf of the Bank that the workers should only get the Minimum Wage. Nor is it, nor can it be, claimed by the employees that in the present state of national economy, a Living Wage can be awarded. What has to be fixed is a Fair Wage, and on that there is no dispute between the parties. But what constitutes a Fair Wage on the facts of this case is what is in controversy between the parties. I shall now examine the principles on which Fair Wages have to be fixed.

Fair Wage:

3.5. Discussing this question the Fair Wages Committee observed as follows: "While the lower limit of the 'Fair Wage' must obviously be the minimum wage, the upper limit is equally set by what may broadly be called the capacity of industry to pay. This will depend not only on the present economic position of the industry but on its future prospects. Between these two limits the actual

wages will depend on a consideration of the following factors and in the light of the comments given below:—

(i) the productivity of labour;

(ii) the prevailing rates of wages in the same or similar occupations in the same or neighbouring localities;

(iii) the level of the national income and its distribution; and

(iv) the place of the industry in the economy of the country."

(Report of the Committee on Fair Wages, page 10, para. 15). These passages were quoted with approval by the Supreme Court in Express Newspapers Case [1959 (1) S.C.R. 12; A.I.R. 1958 S.C. 578; 1961 I L.L.J. 339]. In the case of Hindustan Times Ltd. *Vs.* Their Workmen (A.I.R. 1963 S.C. 1332; 1963 I L.L.J. 108 at 112) it was observed by the Supreme Court that Fair Wage may roughly be said to approximate to the need-based minimum, in the sense of a wage which is "adequate to cover the normal needs of the average employee regarded as a human being in a civilized society." In Kamani Metals & Alloys *Vs.* Their workmen (A.I.R. 1967 S.C. 1175; 1967 II L.L.J. 55 at 58), discussing the principles of fixation of Fair Wage, the Supreme Court observed: "The second principle is that wages must be fair, that is to say, sufficiently high to provide a standard family with food, shelter, clothing, medical care and education of children appropriate to the workman but not at a rate exceeding his wage-earning capacity in the class of establishment to which he belongs." In the Ahmedabad Millowners *Vs.* Textile Labour Association case [1964 (4) S.C.R 409; A.I.R. 1966 S.C. 497; 1966 I L.L.J. 1 at 28) it was pointed out that "in trying to recognize and give effect to the demand for a fair wage, including the payment of dearness allowance to provide for adequate neutralization against the ever-increasing rise in the cost of living, industrial adjudication must always take into account the problem of the additional burden which such wage-structure would impose upon the employer." and that "a broad and overall view of the financial position of the employer must be taken into account and attempt should always be made to reconcile the natural and just claims of the employees for a fair and higher wage with the capacity of the employer to pay it." It should also be stated that the concept of a Fair Wage like that of Living Wage is not fixed and static and that it varies from time to time.

Productivity of Labour:

3.6. I shall now proceed to discuss the question of the wage structure in the Reserve Bank in the light of the principles laid down by the Fair Wages Committee. Firstly there is the question of the productivity of labour. A fair wage is related to a fair work-load and to the productive capacity (*vide* All-India Reserve Bank Employees' Association *Vs.* The Reserve Bank of India. A.I.R. 1966 S.C. 305, 1965 II L.L.J. 175 at 190, and Kamani Metals & Alloys Ltd. *Vs.* Their workmen, A.I.R. 1967 S.C. 1175 at 1177, 1967 II L.L.J. 55 at 58). Where the industry is a manufacturing concern, it is possible to fix "standards of work by means of time and motion studies, by piece-rate system or by incentive methods" (*vide* page 75, para. 251 of Sastry Award). But in a banking concern none of these tests would be applicable. The Sastry Tribunal observed that even assuming that uniform standards of normal work and productivity could be laid down for banks, there was no exact standard for measuring the productivity of labour in connection with banking work. Dealing with this point, the Bank Award Commission observed: "Although the Industrial Disputes Act 1947 classified banking as an industry, in essence, it is financial service rendered to the community. This difference is vital to the present dispute in that it is even more difficult to measure productivity of labour and to correlate it to wages in a service industry, such as banking, than it is in secondary industry, where there is at least an approximate basis of measurement afforded by physical output. The efficiency and productivity of bank labour are composed of diverse elements such as accuracy of work, courtesy and promptness in service, which by their very nature, cannot be measured and compared. This makes the problem of wage fixation and adjudication in banking relatively difficult though not intractable" (pages 48-49 para. 75). This view was followed by the Desai Tribunal in its Award relating to commercial banks, wherein it emphasised that the industry of banking is not concerned with the production of goods, and that was adopted again in the Reserve Bank reference.

3.7. The position is the same in Government service. Considering this question, the Second Pay Commission referred to the criteria laid down by the Fair Wages Committee for determining a fair wage, and discussing their applicability when Government is the employer, observed: "Nor can productivity of labour

be a suitable criterion in Government employment, except, if at all, within certain limits", (page 24, para. 9). It must, therefore, be taken that the criterion of productivity is not a material factor in fixation of a fair wage in the banking industry.

Prevailing rates of wages:

3.8. The next factor to be considered is the prevailing rate of wages in the same or similar occupations in the same or neighbouring localities. There has been a good deal of argument before me as to the occupations which are comparable for fixation of Fair Wages. It has been contended on behalf of the Bank that Government offers the closest parallel to the Reserve Bank in the nature of its work and that therefore it is the scale of pay in Government service that constitutes the best material for comparison. As against this it is argued by the Unions that it is the banking industry that must be the primary guide in determining Fair Wages and further that the work of the employees in the Bank is similar to that of the clerical staff in commercial concerns and that therefore the wage structure in the commercial concerns should also be taken into consideration. These contentions must now be considered.

3.9. In support of the position that the Reserve Bank should be equated with Government for purposes of wage fixation, Shri Phadke contends that its functions are primarily sovereign in character and that it is only incidentally that it does banking business and that it should be classed therefore with Government. On the other hand, it is urged on behalf of the Unions that the Reserve Bank is not a Government Department but an autonomous body incorporated under the Reserve Bank of India Act, 1934, nor does it exercise sovereign functions and that in any event it does carry on banking business and earn considerable profit in such business, and that it should be classed with commercial banks.

3.10. The first question that falls to be determined is as to the true character of the functions of the Reserve Bank, and for correct understanding thereof, it is necessary to examine the provisions of the Reserve Bank of India Act, 1934. About the thirties, there was an economic blizzard which seriously affected the financial stability of many countries in the East and in the West. In India, a Committee, known as the Indian Central Banking Enquiry Committee was constituted to report on the measures that should be taken for securing the development of the Indian banking and credit system. In recommending the establishment of a central bank, the Committee observed that it "would, by mobilisation of the banking and currency reserves of India, on one hand tend to increase in volume of credit available for trade, industry and agriculture and to mitigate the evils of fluctuating and high charges for the use of such credit caused by seasonable stringency" (Volume I, Part I, Chapter XXII, para 605). The White Paper on the Indian Constitutional Reforms also recommended the establishment of a central bank "free from political influence." In accordance with these recommendations, the Indian Legislature enacted the Reserve Bank of India Act, 1934 (2 of 1934), and the Reserve Bank came into existence on the 1st April 1935. The relevant provisions of this Act may now be noticed. The preamble to the Act says that "it is expedient to constitute a Reserve Bank for India to regulate the issue of Bank notes and the keeping or reserves with a view to securing monetary stability in India and generally to operate the currency and credit system of the country to its advantage . . ." Section 3 of the said Act is as follows :—

> "3(1) A bank to be called the Reserve Bank of India shall be constituted for the purposes of taking over the management of the currency from the Central Government and of carrying on the business of banking in accordance with the provisions of this Act.
>
> (2) The Bank shall be a body corporate by the name of the Reserve Bank of India, having perpetual succession and a common seal, and shall by the said name sue and be sued."

Section 7 of that Act provides that "The Central Government may from time to time give such directions to the Bank as it may, after consultation with the Governor of the Bank, consider necessary in the public interest", and that "Subject to any such directions, the general superintendence and direction of the affairs and business of the Bank shall be entrusted to a Central Board of Directors which may exercise all powers and do all acts and things which may be exercised or done by the Bank." Section 17 enumerates the several kinds of business which the Bank is authorised to carry on, which include among others, the accepting of money on deposit without interest from, and the collection of money for, the Central Government, the State Governments, local authorities, and banks; the

purchase, sale and rediscount of bills of exchange and promissory notes, from Scheduled banks, State Co-operative banks, State Financial Corporations, etc.; the making of loans and advances to Scheduled banks, local authorities, State Co-operative banks, State Financial Corporations, etc. against specified securities; the purchase from and sale to Scheduled banks of foreign exchange; and the issue of drafts, telegraphic transfers and other kinds of remittances etc. Section 22 provides that "the Bank shall have the sole right to issue bank notes in India" and that "on and from the date on which this Chapter comes into force, the Central Government shall not issue any currency notes." Section 23 is as follows:—

"23(1) The issue of bank notes shall be conducted by the Bank in an Issue Department which shall be separated and kept wholly distinct from the Banking Department, and the assets of the issue Department shall not be subject to any liability other than the liabilities of the Issue Department as hereinafter defined in Section 34.

(2) The Issue Department shall not issue bank notes to the Banking Department or to any other person except in exchange for other bank notes or for such coin, bullion or securities as are permitted by this Act to form part of the Reserve."

Section 26 provides that the Bank notes shall be "legal tender at any place in India". Section 40 provides that the Bank shall sell or buy from any authorised person foreign exchange at such rates of exchange and on such conditions as the Central Government might determine having regard to its obligations to the International Monetary Fund and this business is to be carried on at Bombay, Calcutta, Delhi and Madras, and at such other branches as may be determined. Under Section 42, every scheduled bank is under an obligation to maintain a certain amount by way of reserve in the Reserve Bank. Section 47 provides that the profits of the Bank shall, after being determined as stated therein, be paid to the Central Government.

3.11. When the Bank was established in 1934 shares were issued to be public. After independence, the Government of India decided to nationalise the Bank and under the Reserve Bank (Transfer to Public Ownership) Act, 1948, it purchased all the shares held by the public and the entire share capital was transferred to Government. In 1949, the Banking Companies Act, 1949 (10 of 1949) (now the Banking Regulations Act) was enacted under which the Reserve Bank was given a large measure of control over the other banks. It was authorised, whenever it was necessary or expedient in public interest, to determine the policy, in relation to the advances, to be followed by the banking companies, the co-operative banks, or by any one of them. Section 22 of that Act provides that save as provided therein no company shall carry on banking business in India unless it holds a licence from the Reserve Bank. Section 35A confers authority on the Reserve Bank to issue directions to the banks whenever it considers it necessary in public interest. Under Section 36, the Reserve Bank can prohibit the banks from entering into any transaction or class of transactions. There are also other provisions conferring on the Reserve Bank various powers of control over the scheduled banks.

3.12. It will be seen from a survey of the provisions of the Reserve Bank of India Act, 1934 and the Banking Regulations Act, 1949 that the activities of the Reserve Bank are manifold in their character. Examining the functions and powers of the Reserve Bank under the statutes aforesaid, the Supreme Court observed in Joseph Kuruvilla Vellukunnel *Vs.* The Reserve Bank of India and others [1962 (1) S.C.R. 297, A.I.R. 1962 S.C. 137, 1962 Company Cases 514 at 526 and 527]:

> The fnctions of the Reserve Bank were generally indicated in the preamble as the regulation of the issue of the bank notes and the keeping of the reserves with a view to securing monetary stability in India and generally to operate the currency and credit system of the country to its advantage. But to enable the Reserve Bank to function in this manner, it had to be given other powers, so that it may function effectively as a central bank. To this end, the Reserve Bank was given the right to hold the cash balances of important commercial banks, a right to transact Government business in India which was also its obligation, and to enter into agreements with State Governments to transact their business. In addition to these, the Reserve Bank could require all banks included in the Second Schedule to the

Act to maintain with the Reserve Bank a balance not less than 5 per cent of their demand liabilities and 2 per cent of their time liabilities. The Reserve Bank also performed the normal functions of a central bank as well as an ordinary bank, though the latter functions are not as detailed as those of an ordinary bank....

The above analysis of some of the provisions of the Reserve Bank of India Act shows that the Reserve Bank of India has been created as a central bank with powers of supervision, advice and inspection over banks, particularly those desiring that they be included in the Second Schedule or those Scheduled already. The Reserve Bank thus safeguards the economy and the financial stability of the country."

3.13. The business of the Reserve Bank can for the purpose of the present discussion, be classified broadly under two categories: (1) issuing of bank notes, and (2) the other activities relating to the receipt of deposits, granting of loans and the like. It is the contention of the Bank that the former is purely a governmental function, that that is the main business of the Bank and that, therefore, it must be considered as a governmental authority. On behalf of the Association, Shri Sule argues that the issuing of bank notes cannot be said to be a sovereign function. He argued that in England, the bank notes were at one time issued by several private bodies, that the Bank of England was only one of them; that it was only in 1833 that the notes of the Bank of England were, by an Act of Parliament, declared legal tender; that in India the three Presidency Banks were issuing currency notes in the Presidency towns of Calcutta, Madras and Bombay and that they were valid only within the town limits; that it was only by the Act of 1861 that the Government took over the currency and thereafter it was the sole authority for issuing the same; that it was this power that was vested in the Reserve Bank under Section 22 of its Act, and that therefore in issuing bank notes the Reserve Bank could not be said to be discharging a sovereign function.

3.14. I am unable to agree with this contention. The distinguishing characteristic of a sovereign power is that it is capable of exercise only by the State, and not by any of its subjects, unless it be under the authority of the State and as its delegate. In State of Bombay Vs. Hospital Mazdoor Sabha [1960 (2) S.C.R. 866, A.I.R. 1960 S.C. 610 at 615, 1960 I L.L.J. 251 at 258] sovereign activities were described as "functions which a constitutional Government can and must undertake for goverance and which no private citizen can undertake." The power to issue currency which will be legal tender within the State is an attribute of sovereignty. No subject can exercise it. It is true that in England prior to 1833, bank notes were issued by the Bank of England, but they were not legal tender, and depended for their circulation on the credit of the bank. It was only in 1833 that they were made legal tender by an Act of Parliament. The result of it was to constitute the Bank of England the delegate of Parliament for exercising the sovereign function of issuing currency notes. In India whatever the position when the East India Company was in management, after the British Crown took over the administration, a law was enacted in 1861, providing for the power of issuing currency notes being exercised only by the Government. It was this power that was vested in the Reserve Bank of India by the Act of 1934, and under Section 26 of that Act the Bank notes were declared legal tender. Thus, the true position is that in issuing bank notes, the Reserve Bank is exercising a sovereign function under legislative delegation.

3.15. It has been contended that though the power to issue bank notes would be a sovereign power when exercised by the State, it would cease to be that when exercised by any other authority. It is argued that the Reserve Bank is an independent body created by a statute, that it is the central bank of the country and that it cannot be treated as a Department of the Government. The scheme of central banks all over the world is, it is said, that they are constituted as advisers to the Government in financial, matters, and that, far from being subordinates to it, they possess a status equal to it with respect to the matters entrusted to them. Reference was made to the Constitution of the central banks in Belgium, Germany, England, France, Italy, Netherlands and Japan and to their powers and functions in relation to the Government. It is, however, to be noted that there are substantial differences in the constitution of these banks and that further there is also a conflict of opinion as to their real status. No useful purpose would be served by discussing their constitutions. So far as the Reserve Bank of India is concerned, the ambit of its powers is defined in the Act of 1934 and the only question is what, under the provisions of that Act is the true position of the

Bank? The material provisions therein are Sections 22 and 23 under which the exclusive power to issue bank notes is vested in the Bank and the Issue Department is treated as a distinct entity.

3.16. What is the position of the Reserve Bank with respect to the powers conferred on it under Sections 22 and 23? They were undoubtedly sovereign functions exercised by the Government of India. Have they shed their character as such when they were vested in the Reserve Bank? The question as to what the position in law is when a sovereign power is vested in a subject has been the subject of consideration in numerous decisions of the highest Courts in the land. A very early decision is the one in the Peninsular Steam Navigation Co. *Vs.* The Secretary of State for India (5 Bombay High Court Reports—Appendix 'A'—page 1). There the question was as to the liability of the East India Company for tort. The Company was entrusted with the work of the government of the country by authority of Parliament. At the same time it was also carrying on trading activities. Referring to this dual capacity the Court observed that "they (East India Comany) were a Company to whom sovereign powers were delegated, and who traded on their own account and for their own benefit, and were engaged in transactions partly for the purposes of Government, and partly on their account, which, without any delegation of sovereign rights, might be carried on by private individuals. There is a great and clear distinction between acts done in the exercise of what are usually termed sovereign powers, and acts done in the conduct of undertakings which might be carried on by private individuals without having such powers delegated to them... But where an act is done, or a contract is entered into, in the exercise of powers usually called sovereign powers, by which we mean powers which cannot be lawfully exercised except by a sovereign, or private individual delegated by a sovereign to exercise them, no action will lie. But we think there can be no doubt that the East India Company would have been liable for the negligence of their servants or officers in navigating a river steamer, or in repairing the same, or in doing any act preparatory to such repairs. Such an act could not by any possibility be said to be done in the exercise of sovereign powers, although it was an act which the East India Company were authorised to do. ....." This decision is clear authority for the position that a body which is not sovereign can be entrusted with sovereign powers and that in the exercise of those powers it would be entitled to the same immunity as the sovereign but at the same time with reference to its activities other than sovereign, it would continue to be liable under the ordinary law. This has been followed in a number of decisions and is settled law.

3.17. In Corporation of City of Nagpur *Vs.* Its employees [1960 (2) S.C.R. 942, A.I.R. 1960 S.C. 675, 1960 I L.L.J. 523] certain disputes relating to wages and conditions of service between the Corporation of Nagpur and its employees were referred by the Government to an industrial court for adjudication. The validity of the reference was challenged by the Corporation on the ground that its activities did not constitute an "industry" and that the reference was accordingly incompetent. In rejecting this contention the Supreme Court pointed out that the powers conferred on the Corporation by the statute were some of them sovereign and others non-sovereign and that in so far as the dispute related to the latter, it would be an industrial dispute. In the course of the judgement the Supreme Court observed: "So, too, the Supreme Court of America in Verisimo Vasquez Vilas V. City of Manila (220 U.S. 345, 356-55 L. Ed. 491, 495) expounded the dual character of a municipal corporation thus:

> "They exercise powers which are governmental and powers which are of a private or business character. In the one character a municipal corporation is a governmental subdivision, and for that purpose exercises by delegation a part of the sovereignty of the State. In the other character it is a mere legal entity or juristic person. In the latter character it stands for the community in the administration of local affairs wholly beyond the sphere of the public purposes for which its governmental powers are conferred."

.......A corporation may, therefore, discharge a dual function; it may be statutorily entrusted with regal functions strictly so called, such as making of laws, disposal of certain cases judicially, etc. and also with other welfare activities. The former, being delegated regal functions, must be excluded from the ambit of the definition of "industry". " This question was again considered by the Supreme Court in Union of India *Vs.* Shri Ladulal Jain 1964 (3) S.C.R. 624, (A.I.R. 1963 Supreme Court 1681). There the point for decision was whether the Government could be said to be carrying on business with respect to the administration of Railways by it. In answering the question in the affirmative, the Supreme Court observed: "It is the nature of the activity which defines its character. ....The fact as to who runs it

and with what motive cannot affect it." Applying the principles laid down in these decisions, I must hold that the business of issuing currency notes being sovereign in character, it retains that character even when it is carried on by the Reserve Bank and the Reserve Bank must be deemed to be the statutory delegate of the Government in this regard.

3.18. This, however, does not conclude the matter. The Bank is also carrying on other activities which banks generally do and which are not sovereign in character. Now the contention of the Bank with reference to them is that they are merely ancillary in character and do not affect the general status of the Bank as a delegate of Government in respect of sovereign powers. Reliance is also placed on the observations of the Supreme Court in All-India Bank Employees' Association *Vs.* The National Industrial Tribunal (Bank Disputes), Bombay and Others [1962 (3) S.C.R. 269, A.I.R. 1962 S.C. 171) that the Reserve Bank is "an expert body which is a governmental authority or practically a Department of the Government" which "is entrusted by law with the duty of maintaining the credit structure of the country". This contention is untenable. As laid down in the decisions already cited—the observations in All-India Bank Employees' Association *Vs.* The National Industrial Tribunal (Bank Disputes), Bombay and Others (1962 (3) S.C.R. 269, A.I.R. 1962 S.C. 171] do not touch this point—there is nothing to prevent the same penson from carrying on both sovereign and non-sovereign activities. With respect to the non-sovereign activities of the Reserve Bank, there is no reason why the wage-structure in the commercial banks could not be a basis for comparison.

3.19. It is argued for the Bank that these activities, though not sovereign, are not of the same character as those in commercial banks, because the profit motive which is at the root of the activities of the commercial banks is absent. The entire capital of the Reserve Bank, it is said, has been furnished by the Government and the net profits are also transferred to the Government. Then again, it is emphasised, that the Reserve Bank does not carry on banking business with members of the public as such; that its customers are the Central and State Governments, commercial banks, co-operative banks and so forth; that its activities are directed towards developing the economy of the nation, and that, therefore, its functions, though of the character of banking, differ in their scope and object from those of the commercial banks. Stress is also laid on the fact that the Reserve Bank has been excluded from the operation of the Payment of Bonus Act, 1965.

3.20. In my view, there is no force in these contentions. The point now to be adjudicated upon is the wage structure of the clerical staff of the Bank and so far as that is concerned, it cannot make any difference whether the capital of the Bank is subscribed by the Government or the members of the public and whether the profits are taken by Government or distributed to the shareholders. In the Union of India *Vs.* Shri Ladulal Jain [1964 (3) S.C.R. 624 A.I.R. 1963 Supreme Court 1681] already cited, the Supreme Court observed" that "profit element" is not a necessary ingredient of carrying on business, though usually business is carried on for profit." Further, section 2(j) of the Industrial Disputes Act, 1947 defines "industry" as under:

> ""industry" means any business trade undertaking manufacture, or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen."

The contention was raised whether an industry would fall within the purview of this provision if the elements of subscription of capital and distribution of profit were lacking. In answering this question in the affirmative, the Supreme Court observed in the State of Bombay *Vs.* Hospital Mazdoor Sabha [1960 (2) S.C.R. 866, A.I.R. 1960 S.C. 610 at 615, 1960 I L.L.J. 251 at 257, 258):

> "It is true that under the old-world notion prevailing under the capitalist form of society industry generally means an economic activity involving investment of capital systematically carried on for profit for the production or sale of goods by the employment of labour. When it is urged by the appellant that an undertaking should be analogous to trade or business, what is really intended is that unless the undertaking in question shares the aforesaid essential features associated with the conventional notion of trade or business, it should not be treated as falling under S. 2(j). There are two serious difficulties in accepting such a suggestion, and indeed the appellant concedes the presence of these two difficulties. It is not disputed that under S. 2(j) an activity can and must be regarded as an industry even though in carrying it out profit motive may be absent. It is also common ground that absence of investment of any capital would not make a material difference to the applicability of S. 2(j). Thus, two of the important attributes conventionally associated with trade or business are not necessarily predicated in interpreting S. 2(j)."

3.21. The question whether the principles of wage fixation laid down in adjudications relating to undertakings in private sector would be applicable to undertakings in public sector carried on by a corporation came up directly for decision in the Hindustan Antibiotics Ltd. *Vs.* Their workmen [A.I.R. 1967 S.C. 948, 1967 I L.L.J. 114]. The contention of the Company was that as the capital was subscribed by the Government and the profits were taken by the Government and utilised for public purposes, the position of the employees in such undertakings was analogous to that of Government servants and that therefore it would not be legitimate to compare the wage structure of such undertakings with those in private sector undertakings. In repelling this contention the Supreme Court observed: "Nor the service condition of the employees in public sector undertakings are analogous to those of the Government employees. There is no security of service; the fundamental rules do not apply to them; there is no constitutional protection; there is no pension; they are covered by service standing orders; their service conditions are more similar to those of employees in the private sector than those in Government departments. ..... Indeed, the Pay Commission report does not deal at all with Government undertakings in the public sector. .....On a consideration of the relevant material placed before us, we have come to the conclusion that the same principles evolved by the industrial adjudication in regard to private sector undertakings will govern those in the public sector undertakings having a distinct corporate existence." The fact that the Reserve Bank is excluded from the operation of the Payment of Bonus Act, 1965 is immaterial, as it has been expressly included within the operation of the Industrial Disputes Act, 1947. The conclusion must, therefore, be that in fixing the wage scale in the Reserve Bank it would be proper to take into account the wage structure in the commercial banks.

3.22. It is next contended by the unions that the prevailing rates of wages in commercial concerns are also admissible for comparison, as the work of the clerical staff is practically the same whether the industry is banking or other commercial activities. The point is covered by decisions of the Supreme Court. In Liptons Ltd. *Vs.* Their employees [1959 Supp. (2) S.C.R. 150, A.I.R. 1959 S.C. 676, 1959 I L.L.J. 431], the dispute related to wages of workmen in a Company carrying on business as tea merchants. In fixing the scale of wages, the Tribunal had taken into account the prevailing wages in dissimilar industries such as oil concerns, engineering, and manufacturing concerns. The correctness of this procedure was attacked on appeal to the Supreme Court but the finding of the Tribunal was upheld. In the French Motor Car Company *Vs.* Their workmen [1963 Supp. (2) S.C.R. 16, A.I.R. 1963 S.C. 1327, 1962 II L.L.J. 744], the question was again raised whether in fixing the scale of wages, it would be proper to compare wages in dissimilar industries. The Supreme Court held, following the decision in the Liptons case, that that could be done if the work was similar even though the lines of business were different, and that the work of the clerical staff would in general be similar. The question came up again for consideration in Greaves Cotton Company *Vs.* Their workmen (A.I.R. 1964 S.C. 689, 1964 I L.L.J. 342 at 346) and expressing its agreement with the principle laid down in the French Motor Car Company case, the Supreme Court observed: "In the French Motor Car Company case [1963 Supp. (2) S.C.R. 16, A.I.R. 1963 S.C. 1327, 1962 II L.L.J. 744], (*vide* supra), however, this Court held so far as clerical staff and subordinate staff are concerned that it may be possible to take into account even those concerns which are engaged in different lines of business, for the work of clerical and subordinate staff is more or less the same in all kinds of concerns". The law must, therefore, be taken to be settled that it is permissible to take for comparison the wages prevailing in other dissimilar industries provided that the work of the employees is similar in character.

3.23. On this reasoning, it will follow that the pay of the clerical staff in Government service would also be admissible for comparison. Dealing with this question the Sastry Tribunal observed as follows: "In matters of education, intelligence, social needs, family responsibilities, standards of living and outlook on life there is a fair degree of similarity between the clerks that work in a bank and those that work in a Government department" (page 76, para. 259). Before the Labour Appellate Tribunal, the correctness of this view was questioned. But that Tribunal agreed with the reasoning of the Sastry Tribunal and went further and held that "in the fixation of the wages of bank clerks we must take into account the pay not only of Government servants, insurance companies, transport companies, but also the major and lesser commercial concerns, ..." (page 54, para. 79). The Desai Tribunal adopted this view in its Awards both in the commercial banks and in the Reserve Bank reference. Therefore there cannot be any objection to the wages prevailing in comparable commercial concerns or Government service also being taken into account.

3.24. At the same time a note of caution must be sounded. In one sense the work of the clerical staff can be said to be similar whether it is in Government service or banks or commercial concerns, but that is only in contra-distinction to workmen engaged in manual labour in factories and other industrial establishments. But among the clerical staff there are differences. Though at the time they enter service their qualifications may be similar, the special and technical character of the work, in their respective services, must lead to differentials in their knowledge and equipment. In Government service the employee has to acquire special knowledge of the rules and the practice of the particular Department in which he works. In banks it is specialised knowledge in banking that is required and that is why special benefits are conferred on employees who pass the examinations of the Bankers' Institutes. In commercial concerns it is the knowledge of the condition of the trade and of the market that will be of assistance. It will, therefore, be not possible or proper to apply the same standard to all of them. Another factor which has got to be borne in mind is that the fixation of wages in industries such as manufacturing concerns and the like has in general to be made on the Industry-*cum*-region basis. The reason behind this is that, for the purposes of avoiding movements of labour and discontent amongst the workmen, there should, as far as possible, be similarity in wage structure in business concerns in the same region. But this is not an inflexible rule even in the case of commercial concerns. In the Express Newspapers case [1959 (1) S.C.R. 12, A.I.R. 1958 S.C. 578, 1961 I L.L.J. 339 at 366] the Supreme Court observed: "It is clear therefore that the capacity of an industry to pay should be gauged on an industry-*cum*-region basis after taking a fair cross-section of that industry. In a given case it may be even permissible to divide the industry into appropriate classes and then deal with the capacity of the industry to pay class-wise". A decision which is particularly instructive is the one in the Remington Rand case (1962 I L.L.J. 287). In that case, in fixing the wage scale in a typewriting company, the Tribunal declined to act on the industry-*cum*-region basis. The correctness of this conclusion was assailed before the Supreme Court but in affirming it, the Court observed: "Thus, on the finding of the Tribunal, the Company has a distinctive and special position in the industry and has attained in its business the position of a semi-monopolist. There are no industrial concerns which are comparable to the Company and that is the main reason which weighed with the Tribunal in rejecting the Company's plea that the wage scale and the dearness allowance paid by other better concerns should be taken into account. In the circumstances of this case, we are not prepared to hold that the Tribunal was in error in taking this view." On this reasoning, it would *a fortiori* be difficult to apply the industry-*cum*-region principle to an institution like the Reserve Bank which is an all-India institution, *sui juris* in character.

3.25. The question of the application of the industry-*cum*-region principle to the banks has been the subject of judicial consideration. Referring to it the Sastry Tribunal observed: "Having regard to the All-India operation of the industry and its units it is difficult to define the regional area referred to in the formula 'industry-*cum*-region basis'. Banking, as has been already pointed out, is more a service than an industry producing goods. It cannot therefore have a region-wise character, like the major industries of the country, *e.g.* textiles, jute, tea, rubber, etc." (page 37, para. 114). In the result the banks were classified into 'A' Class, 'B' Class and so forth and wages fixed on a class-wise basis. The Desai Tribunal dealing with this question in the commercial banks reference observed: "The principle of industry-*cum*-region basis which has usually been applied by industrial Tribunals is not one which could be applied to an industry like banking where most of the large banks have branches throughout the country. The region-wise approach was considered and dropped by previous Tribunals in dealing with the industry of banking" (page 53, para. 4, 166).

3.26. The result then is that while it would be proper to compare the wage-structure in Government service on the one hand and in commercial concerns on the other, it is by and large the commercial banks that are nearest to the Reserve Bank and afford in general suitable material for comparison.

3.27. Taking up the commercial banks for comparison, there are many of them and they differ widely in their volume of business, extent of profits, or strength of labour force. Now, the question is, which of them have to be taken up for comparison? While according to the Bank, it is the industry as a whole that must be taken up for comparison, according to the unions, it is not the generality of the banks but the topmost among them that should serve as a basis for wage fixation. This renders it necessary to examine the factors which are relevant for making a comparison. These have been considered in a number of decisions by the Supreme Court. The leading case on this subject is Novex Dry Cleaners *Vs.* Its workmen

(1962 I L.L.J. 271 at 273). Discussing therein the criteria for comparison of one industry with another, the Supreme Court observed: "In dealing with the question as to whether the appllant establishment was comparable to Snowhite and Band Box, it was obviously necessary to compare the three institutions in respect of their standing, the extent of the labour force employed by them, the extent of their respective customers and, what is more important, a comparative study should have been made of the profits and lossess incurred by them for some years before the date of the award."

3.28. Discussing this question again in the French Motor Car Company Ltd. *Vs.* Their workmen [1963 Supp. (2) S.C.R. 16, A.I.R. 1963 S.C. 1327, 1962 II L.L.J. 744 at 747], the Supreme Court stated the position thus: "....generally speaking, similar concerns would be those in the same line of business as the concern with respect to which the dispute is under consideration. Further, even in the same line of business, it would not be proper to compare (for example) a small struggling concern with a large flourishing concern. In Williamsons (India) (Private) Ltd. Vs. The workmen (1962 I L.L.J. 302), this Court had to consider this aspect of the matter, where Williamsons (Private) Ltd., was compared by the Tribunal with Gillanders Arbuthnot and Company for purposes of wage fixation, and it was observed that the extent of the business carried on by the concerns, the capital invested by them, the profits made by them, the nature of the business carried on by them, their standing, the strength of their labour force, the presence or absence and the extent of reserves, the dividends declared by them, and the prospects about the future of their business and other relevant factors have to be borne in mind for the purposes of comparison. These observations were made to show how comparison should be made, even in the same line of business and were intended to lay down that a small concern cannot be compared even in the same line of business with a large concern. Thus where there is a large disparity between the two concerns in the same business, it would not be safe to fix the same wage-structure as in the large concerns without any other considerations. The question whether there is a large disparity between two concerns is, however, always a question of fact and it is not necessary for the purposes of comparison that the two concerns must be exactly equal in all respects. All that the Tribunal has to see is that the disparity is not so large as to make the comparison unreal. In Novex Dry Cleaners *Vs.* Its workmen (1962 I L.L.J. 271), this Court pointed out that it would not be safe to compare a comparatively small concern with a large concern in the same line of business and impose a wage-structure prevailing in the large concern as a rule of thumb without considering the standing, the extent of labour force, the extent of business and the extent of profits made by the two concerns over a number of years."

3.29. In Kamani Metals & Alloys Ltd. Vs. Their workmen (A.I.R. 1967 S. C. 1175, 1967 II L.L.J. 55 at 59), the Supreme Court again reviewed the authorities on this question and after reiterating the criteria as laid down therein observed: "In attempting to compare one unit with another care must be taken that units differently placed or circumstanced are not considered as guides, without making adequate allowance for the differences. The same is true when the regional levels of wages are considered and compared. In general words comparable units may be compared but not units which are dissimilar. While disparity in wages in industrial concerns similarly placed leads to discontent, attempting to level up wages without making sufficient allowances for differences, leads to hardships."

3.30. Applying these tests, it is common ground that among the commercial banks, the 'A' Class banks would generally be comparable to the Reserve Bank in point of standing, labour force and extent of profits. The unions, however, contend that not all the 'A' Class banks, but only two of them should properly be taken up for comparison, *viz.* the State Bank of India and the Bank of India. To appreciate this contention, it must be mentioned that the wage scales laid down in Bipartite Settlement apply to all the commercial banks excepting the State Bank of India and the Bank of India. These two banks have entered into separate agreements with their employees and the scale of wages fixed therein is higher than that under the Bipartite Settlement. The contention of the unions is that it is the wage scales fixed pursuant to these agreements, and not the one fixed under the Bipartite Settlement that should be the basis for comparison. They further contend that the scales of wages to be now fixed should be higher than those adopted in the agreements of these two banks because the profits of the Reserve Bank are much more than those of the other two. It is further urged that assurances have been given by successive Govenors of the Bank that its policy would be to give a lead to commercial banks in the matter of the wages of its employees. The Bank strongly opposes this claim. It contends that it is not a profit making body in the sense in which commercial banks are, that as the central bank of India its activities are directed towards building up national economy and the quantum of its profits is not and cannot be taken

into account in fixing wages. It also argues that the so-called assurances given by the Governors do not warrant the contention that the scale of wages in the Reserve Bank would be higher than that in the commercial banks and that in any event they are of no value in these proceedings, the objective whereof is the fixation of Fair Wages. These contentions must now be considered.

3.31. It cannot be disputed that the profits form a material factor in the comparison of industries. But the difficulty in this case arises from fact that the major and predominant activity in the Bank consists of the sovereign function of issuing currency notes and that it is only a portion of its activities that can be strictly said to be of the character of banking. The question is how to apportion the profits pertaining to the banking activities? It appears that in similar circumstances different methods are adopted in the U.S.A. and in U.K. According to the Association the income apportionable to the banking activities is, in crores, Rs. 13.83, Rs. 14.41, Rs. 15.24, Rs. 21.15, and Rs. 19.56 for the years 1961-62 to 1965-66 respectively (*vide* Ex. A-2). The Bank contents that that is not the true position and that on a proper calculation "the net amount that could be said to have been earned in the Banking Department was about 13 per cent. of the total net earnings in 1964-65 and about 12 per cent. in 1965-66", (*vide* Ex-B-10). Reliance is also placed on the following observations of the Supreme Court relating to the comparative incomes from the two sources. "Its main sources of income are discounting treasury bills, and interest on sterling securities and rupee securities held against the note issue. Incomes from exchange on remittances, commission on the management of Public Debt and interest on loans and advances to banks and Governments is small", (The All-India Reserve Bank Employees' Association Vs. The Reserve Bank of India, A.I.R. 1966 S.C. 305, 1965 II L.L.J. 175 at 194). According to the Bank the correct income of the Banking business could only be about 13 per cent. of the total earnings in 1964-65 and 12 per cent. in 1965-66. The unions contend that even accepting the figure as given by the Bank, the profits made by it are much more than what has been earned by either the State Bank of India or the Bank of India. According to Ex. F-17, the profits earned by the State Bank of India for the years 1965 and 1966 are, in crores, Rs. 3.29 and Rs. 3.79 respectively, while that of the Bank of India for the same period was Rs. 1.49 crores for both the years. The corresponding figures for the Reserve Bank of India for 1965 and 1966 would be, calculating the net income for the Banking Department, at 12 per cent. of the total income, be Rs. 5.76 and Rs. 6.00 crores, respectively. On the basis of these figures the contention urged on behalf of the unions is that the Bank is in a position to pay more than the State Bank of India or the Bank of India, and that therefore its wage scale should be higher.

3.32. I agree that the element of profits is a factor which ought to be taken into account for purposes of comparison. The Bank contends that it should not, be, because its main function, *viz.* issuing of currency notes is a sovereign activity and that banking activities are subordinate to it. This question has been already considered by me and I have held that the banking activities of the Reserve Bank are distinct and separate from its sovereign function and that principles of wage fixation in comparable industries would be applicable to them. This question is concluded by the decision of the Supreme Court in Hindustan Antibiotics Ltd. Vs. Its workmen (A.I.R. 1967 S.C. 948, 1967 I L.L.J. 114). But the question still remains as to the true scope of that comparison. Does it involve the fixation of wages on the basis of the industry as a whole, or on the basis of any particular unit in that industry? The contention of the unions proceeds on the assumption that the latter should be the basis. It is the correctness of this assumption that must now be examined. Now, the purpose underlying the comparison of wage structures, whether on industry basis or region basis or industry-*cum*-region basis is to ensure, as far as possible, uniform conditions in that industry or the region, so that there may be no migration of labour from unit to unit or from region to region and no discontent among the workmen. Now when this principle is applied to an industry, as in this case, it must, on the reason of it, mean industry as a class and not any particular unit in it. Otherwise, it must result in a race for enhancement of wages leading to wage escalation. The correct approach is to view the industry as a whole and not in relation to any particular unit and to take a cross-section of the units for the purpose of fixing the wage structure. This principle was thus stated by the Fair Wages Committee: "We are of the view that in determining the capacity of an industry to pay it would be wrong to take the capacity of a particular unit or the capacity of all industries in the country. The relevant criterion should be the capacity of a particular industry in a specified region and, as far as possible, the same wages should be prescribed

for all units of that industry in that region" (page 14, para. 23). These passages were quoted with approval by the Supreme Court in Express Newspapers (Private) Ltd. and another Vs. Union of India and Others [1959(1) S.C.R. 12, A.I.R. 1958 S.C. 578, 1961 I L.L.J. 339]. *Considering this question the Labour Appellate* Tribunal emphasised that it is not the capacity of the individual unit to pay that is determinative but the wage level in the industry. It observed: "It should be abundantly clear by now that although a concern with a higher capacity is required to pay a wage which is nearer to a living wage, the fixation of such wage is nevertheless governed by the principles stated in the Fair Wages Committee's Report, and wages are so circumscribed that they do not upset wage levels. .....Wages do not rise in proportion to the earning capacity of a concern, for wages of even the most prosperous of all concerns must necessarily be in some state of balance with wages round about" (page 50, para. 70 and page 65, para. 99).

3.33. Where there are several units and there is great disparity among them it might produce hardships or injustice if the wage is fixed on the basis of a cross-section of all the units. It is to avoid this that the units in an industry are grouped into classes on the basis of their standing, strength and the profits made by them over a number of years; and within each of the groups, the wage structure is determined by taking a fair cross-section of all the units. The following observations in the Bank Award Commission Report are appropriate: "It seems to me that, in dealing with the dispute between inter-State banks and their employees, a more rational and more satisfactory basis is supplied by the class-wise approach to the problem. It is perfectly true that, in classifying banks, care must be taken to adopt a fair basis for classification and to bring together in one category banks which may be regarded genuinely as homogeneous in all material particulars. In fixing the wage structure class-wise, care must likewise be taken to fix the wage structure in such a manner that it would not be unduly below the paying capacity of the bank at the top of the class, nor unduly above the paying capacity of the bank at the bottom of the class. This result can be achieved if, in classifying banks, the distance between the capacity of the bank at the top and that of the bank at the bottom is not very large or glaring" (page 43, para. 66). *Thus, the profits of a concern enter into calculation* only as a factor in determining the group or class in which the concern has to be placed and when once that has been done the profits of the individual concern do not count. It is only the fair cross-section of all the units in the group that is determinative. It is on this principle that the tribunals have classed the commercial banks into 'A' Class, 'B' Class and 'C' Class and applied one uniform standard within the same class. On this reasoning, it follows that in comparing the 'A' Class commercial banks we must have regard to the wage-structure as a whole in this class of banks by taking a fair cross-section. The Bipartite Settlement must, therefore, be taken as a basis for comparison and not the particular wage scales adopted in the agreements of the State Bank of India and the Bank of India.

3.34. In this view it becomes unnecessary to consider in any detail the contention of the Bank that its banking activities are not really commercial in their character, that they are directed towards the building up of national economy and cannot be taken into account in fixing wages. In its written statement the Bank pleads that the increase in its capacity to pay should be judged "solely on the basis of the *per capita* real national product". The question as to the precise relationship between the wages of workmen in banks and the national *per capita* has been the subject of consideration by the tribunals. The Sastry Tribunal observed that contribution of the banking industry to the national income must be considered "quite a tiny fraction of the economy of so huge a country as India", as that it was "not suggesting that the workmen should be paid according to the *per capita* national income or the *per capita* banking income but we want to point out that what he claims as his total remuneration—basic pay, allowances, retirement benefits and so forth—should not be very much out of alignment with what he produces or what the nation with his co-operation produces," (page 74, para. 250). The Bank Award Commission, considering this question, observed that: "In trying to construct a wage structure in respect of any trade or industry it would no doubt be necessary to bear in mind the background of the general economic condition of the country and the nature and level of the national income. When I say that the level of national income must be taken into account I wish to make it clear that the low level of national income should not be permitted to be unduly pressed against a liberal fixation of wage structure in any given industry if the burden of such a structure can be borne by the industry in question. In fixing a wage structure, regard must be had to the level of wages

in other comparable industries in the country and care must be taken to provide for a minimum wage structure below which no industry should normally be permitted to function" (page 28, para. 43). The question was against considered in great detail by the Second Pay Commission and its conclusions were thus stated: "In this situation, a proposal to relate wages and salaries of Government servants to national productivity may, apart from any other objections, have an inflationary effect. Estimates of national income provide only a *post-facto* measurement of the generation of incomes and their flow; it is not that an increase in national income constitutes a separate corpus which is available for distribution among the various claimants. If, therefore, the Central Government employees are to be given an increase in remuneration on the basis of increase in national income, this can be done only by obtaining the requisite amount from other sectors of the economy, through taxation, deficit financing, etc.; and we are advised that the increase, even though limited to the rate of increase in national income, may have some inflationary effect. We have thus come to the conclusion that except in the broad sense of being an indicator of the level and the state of the economy, and thus of the resources which—though subject to various limitations—the Government can draw upon for their needs, the trend (the annual output, which may sometimes fall, has no practical relevance because rates of remuneration of Government servants cannot, in any case, be revised annually) of national productivity cannot be accepted as a factor by itself for the determination of salaries and wages of Government servants" (page 33, para. 36). The following observations in the Hindustan Times *Vs.* Their workmen [1964(1) S.C.R. 234, A.I.R. 1963 S.C. 1332, 1963 I L.L.J. 108 at 112) may also be quoted as relevant in this context: "The fixation of wage-structure is among the most difficult tasks that industrial adjudication has to tackle. On the one hand not only the demands of social justice but also the claims of national economy require that attempts should be made to secure to workmen a fair share of the national income which they help to produce. On the other hand, care has to be taken that the attempt at a fair distribution does not tend to dry up the source of the national income itself." Thus, it will be seen that in the adjudications relating to the commercial banks as also in Central Government, the question of national income and *per capita* real national product do not directly enter into the fixation of wages but they furnish a background and the wage structure must be such as not to unduly depress the rights of the workmen or to throw a heavy burden on the employer.

3.35. Then there is the question of the strength of labour force in the Reserve Bank and in the commercial banks. Ex. B-20 shows that the strength of the workmen staff in the State Bank of India is 33,258 and that is the largest among the commercial banks. The strength of the clerical staff in the Reserve Bank concerned in this dispute is 11,109 (*vide* Ex. B-6). The argument of the unions is that on the basis of the strength of the labour force it is the scale of pay in the State Bank of India that would be the proper one for comparison. The contention of the Reserve Bank is that the total strength of the commercial banks which are parties to the Bipartite Settlement is 73,766 and that this should form the proper basis for comparison. On the principle that a fair cross-section of the industry should be taken for fixation of wage structure, it is the scale in the Bipartite Settlement that would appear to be the right one for comparison and it should also be remembered that the strength of the labour force is but one, and not the most important, of the factors entering into the fixation of the Fair Wage.

3.36. It is next contended on behalf of the unions that assurances have been given by successive Governors of the Bank that the scale of wages in the Reserve Bank would be ahead of that in the commercial banks, that they had been in fact acted upon and that accordingly the pay scale to be fixed must be higher than that adopted in the agreements of the Bank of India and the State Bank of India. In May 1946, the then Governor of the Reserve Bank stated that "....he and the Directors were prepared always to view the cause of the staff sympathetically and have already laid down a policy that we should be prepared to give our staff slightly more than what other comparable institutions are prepared to pay, thus giving a lead to a policy of enlightened employment of white collar labour....." and again in the course of the conciliation conference in August 1953, the then Governor of the Reserve Bank stated: "Our policy is to be fair—I might say, even more than fair—to the staff but we cannot certainly overlook the economic condition of the Society as a whole and consider Reserve Bank in isolation. Such a policy would be against the national interest and that is why my predecessor told you that the service conditions of the Reserve Bank

staff must have some relation to the conditions obtaining in other banks and assured you that conditions in the Reserve Bank will always be a little better. This continues to be our policy even today....." To these two must be added the statement of the Governor of the Reserve Bank made at the conciliation conference with the representatives of the union in December 1958 that there ought to be some relation between the emoluments paid by the Reserve Bank and those paid by the Central Government, that the Reserve Bank, however, went a little further and decided that their emoluments would be a little higher than those of the commercial banks, that he (the Governor) did not see how the workmen could honestly expect the Reserve Bank to go well ahead of the commercial banks and that in fact the Reserve Bank employees were aristocrats in the sense that they were paid more than any body else. Exs. F-1 to F-4 have been filed for showing that in fact the wages paid by the Reserve Bank till the date of the Bi-partite Settlement were higher than those in the commercial banks. The contention of the unions based on the statements of the Governor in 1946 and 1953 and on Exs. F-1 to F-4 is that the declared policy of the Reserve Bank has been to have a scale of wages always ahead of what the commercial banks give and it is said that this policy should be honoured and that the wage scale should be higher than that adopted by the State Bank of India and the Bank of India.

3.37. The contention of the Bank is that read in their context the statements of the Governors merely emphasised that the policy of the Reserve Bank would be to give Fair Wages and that, if anything more was meant, that would not be binding in proceedings for fixation of Fair Wages such as the present. This contention renders it necessary to examine the background against which the Governors made these statements. In 1946, the wage scales in the commercial banks were, in general, low and hovering about the minimum-wage level. The statement of the Governor of the Bank that the "white collar labour" staff should be given "slightly more than what other comparable institutions are prepared to pay" must, therefore, be understood, it is said, to mean that the Bank was prepared to pay Fair Wages and not merely the wages which were generally given in commercial banks. After the above statement was made, the Bank was nationalised and the approach of the Reserve Bank to the problem in 1953 when the second assurance relied on was made does bear the impress of this change. That is why the statement emphasised the need for keeping in mind "the economic condition of the society as a whole" and "the national interest"; and then the statement made by the Governor in 1946 is explained as meaning that "the service conditions of the Reserve Bank staff must have some relation to the conditions obtaining in other banks" and "that conditions in the Reserve Bank will also be a little better." Then there is the statement made during the conciliation proceedings in 1958 that the emoluments paid in the Reserve Bank ought to bear some relation to those paid by Central Government, that they were in fact higher than those in commercial banks and—and what follows is note-worthy—ends that the workmen could not honestly expect the Reserve Bank to go well ahead of commercial banks. This goes directly against the contention of the unions that the policy of the Bank is to go ahead of the scales in commercial banks.

3.38. It is difficult to reconcile all these statements. But this much is clear that it is not possible to spell out any clear defined and settled policy common to all the three statements. Ex. A-132 has a material bearing on this point. It is a communication sent by the Bank to the Association and that shows that the endeavour of the Bank was to give fair wages. It contains a statement of the principles proposed to be followed in fixing the wages. At centres where there were awards of Tribunals fixing scales of wages it is proposed to adopt them as the basis and in other places the wages are to be fixed on the basis of the average of the scales in the then Imperial Bank of India, Central Bank of India and the Bank of India. It should be noted that in 1948 when the statement was made, the classification of banks into 'A' Class, 'B' Class and so forth had not been made and the proposal of the Bank must, under the circumstances, be construed as meaning, fixing of wages on the basis of the scales which prevailed in the leading banks, by taking a cross-section of them. This would negative the contention of the union of any assurance or policy by the Bank of giving wages ahead of the highest among the Commercial banks. The several statements of the Bank, read in their context, are susceptible of the construction that the policy of the Bank was to give fair wages and not wages higher than the highest in the commercial banks. In other words the lead to be given is in giving Fair Wages.

3.39. As for the argument that the assurances were in fact acted upon by the Reserve Bank, as shown by the quantum of emoluments as revealed by Exs. F-1

to F-4, there is no doubt that they are higher. But there is a dispute as to the basis on which the settlement between the parties took place in 1954. In my opinion no argument can be built up on this.

3.40. Before the Desai Tribunal the contention was raised by the Bank that any assurances given by the Governors should not be taken into account in proceedings for fixation of wages and that the adjudication must be on the merits. Agreeing with this, the Tribunal observed: "It is, no doubt, true that assurances given by or on behalf of any employer cannot constitute the foundation for making an Award." (page 24, para. 3.23). I agree. In my opinion it is the duty of a Tribunal which is constituted for adjudication of disputes regarding scale of wages, to determine the Fair Wages payable to the workmen. It is difficult to see what place there can be in such adjudications for assurances given by a Governor of the Bank. Apart from any question as to how far such assurances are binding on the Bank, they cannot certainly be the basis for fixation of Fair Wages. The Desai Tribunal then proceeds to state that "Assurances, however, when given, give rise to expectations and if the same are not fulfilled, they lead to discontent. Assurances so given cannot be wholly ignored, though an Award cannot rest on the same," (page 24, para. 3.23). I find it difficult to see what those expectations can be in the face of the statement given in 1958. The three statements of 1946, 1953 and 1958 run on different lines and it is impossible to spell out any certain policy out of them, which is the necessary *sine qua non* for an expectation. I am accordingly of opinion that in the fixation of Fair Wages these assurances cannot be taken into account. In the result, it must be held that among the commercial banks, it is the 'A' Class banks that are best suited, by their standing, strength, and profits, for comparison and that it is the overall position presented by them that must be taken into account in fixing wages and it would not be correct to take the wage scale in any one unit as basis for fixation.

3.41. On the principles as stated above, it becomes necessary to compare the wage-structure of the Reserve Bank with that prevailing in 'A' Class commercial banks. The dispute between the parties on this part of the case is, as to the items of payment which ought to be included in the wage packet. The Association has filed Exs. A-4, A-9 to A-11, and A-13 showing the comparative position of the emoluments of an employee in the commercial banks, under the Desai Award and the Bipartite Settlement, and in the Reserve Bank, made up of, in the case of the former, pay house rent, with and without dearness allowance/bonus and in the case of the latter, of pay, house rent, and with or without dearness allowance. Exs. A-5 to A-8 show the comparative position in the Bank of India and in the Reserve Bank. A-12 is the comparative statement relating to the State Bank of India and the Reserve Bank of India. The Federation has also filed a number of documents on this point. Exs. F-1 to F-6, F-10 series and F-60 relate to 'A' Class commercial banks; F-7 to F-12 and F-19 relate to the Bank of India and F-13, F-19 series, F-66 and F-67 relate to the State Bank of India. These exhibits show that while prior to the Bipartite Settlement the total emoluments in the Reserve Bank compared in general favourably with those in commercial banks, under that Settlement the scales have turned in favour of the employees of the commercial banks. The State Bank of India and the Bank of India have, as already stated, entered into separate agreements with their employees and the emoluments of the emloyees under those agreements are decidedly more than those in either the Reserve Bank or the other commercial banks.

3.42. The Reserve Bank has filed Ext. B-15, B-50 and B-115 showing the comparative position of the emoluments in the Reserve Bank and in 'A' Class banks. The emoluments include in addition to pay, house rent and dearness allowance, three more items *viz.* family allowance, special pay admissible to Clerks in Grade I and the excess in the provident fund contribution made by the Reserve Bank over that admissible to the clerks in the commercial banks. The Bank has also filed Ex. B-26 in reply to Association's exhibits giving the comparative statements of the emoluments in the Reserve Bank and the commercial banks. In addition to these, the Reserve Bank has filed Exs. B-35 and B-115 giving a comparative statement of the emoluments of Clerks in the Reserve Bank and those in Central Government service. B-36 shows the emoluments of clerks in certain State Governments. B-52 and B-116 show the wages paid to clerks in certain public sector undertakings. These statements show that the emoluments of a Reserve Bank employee are decidedly higher than those paid to Government servants and until we come to the recent Bipartite Settlement and the agreements entered into by the Bank of India and the State Bank of India with their employees, they were favourable in comparison with the emoluments paid in those banks. It cannot be disputed that the total emoluments under the Bipartite

Settlement and the agreements aforesaid are somewhat higher than those now paid to the employees in the Reserve Bank of India, if the 6 per cent. temporary *ad-hoc* Dearness Allowance is excluded, as claimed by the Bank (*vide* Ex. B-50). But it is claimed on behalf of the Bank that the statements filed by the unions do not present a correct picture of the true position with reference to the emoluments paid to the employees in the Reserve Bank, as they have failed to take into account, family allowance, special pay, and excess provident fund contribution. The unions contend that these three payments should be excluded in the assessment of the total emoluments. They say that family allowance is admissible only to some of the employees and is, besides, a contingent one and that therefore it should be ignored. As regards special pay to Clerks Grade I, they contend that it is not given to all the employees and therefore that also should be left out of the account. As for the excess provident fund contribution, the unions contend that it does not confer any advantage *in presenti*, and therefore should be left out. It will be seen from the foregoing that the items of payment which make for differences in the wage packet between the Reserve Bank and the commercial banks are bonus, family allowance, special pay for Grade I Clerks and excess provident fund contribution. It is on these items that the controversy of the parties have centred.

Bonus:

3.43. It is the contention of the unions that bonus payable to the employees in commercial banks should also be included, for purposes of comparison with their total emoluments. The Bank disputes this, and contends that Section 32 (viii) of the Payment of Bonus Act, 1965 prohibits payment of bonus to its employees, and that therefore. it should be excluded from the comparable emoluments of the commercial banks. The relevant provisions of the Act may now be noted. Section 8 declares the right of an employee to bonus. 'Salary or wage' is defined in Section 2(21) as including dearness allowance. and Section 10 provides that an employee shall be entitled to a minimum bonus of four per cent. of his "salary or wage". Section 11 provides for a maximum bonus upto twenty per cent. of "salary or wage". Section 32 of the Act is as follows :

"32. Nothing in this Act shall apply to—

* * * * * *

(viii) employees employed by the Reserve of India;

* * * * * *

(x) employees employed by any establishment in public sector, save as otherwise provided under this Act;"

Section 20 contains a saving provision. It enacts that the provisions of the Act would not apply to an undertaking in the public sector unless such undertaking "sells any goods produced or manufactured by it or renders any services, in competition with an establishment in private sector, and the income from such sale or services or both is not less than twenty per cent. of the gross income of the establishment." Now it is contended on behalf of the bank that the effect of Sections 32(viii) and 20 is to prohibit the payment of bonus by the Reserve Bank. The Bank is certainly an undertaking in the public sector. Its banking business cannot be said to be in competition with that of any commercial bank having regard to the scope of its activities and to its customers in that line. Its profits in the banking business are less that 20 per cent. of its total earnings. Accordingly, it is argued, the question of bonus is governed by these provisions of the Act and they prohibit the grant of it.

3.44. On behalf of the unions it is contended that the Act is not exhaustive of the right to bonus, and that an employee can claim it under the general Industrial Law, there being no express prohibition against it in the Act. Two decisions were quoted in support of this contention. In Various Kirana and Chillies Merchants in the city of Madras *Vs.* Their workmen (1967 I L.L.J. 826), the question arose with respect to establishments employing less than twenty persons. They are not covered by Section 1(3) of the Act and therefore fall outside its ambit. On that the contention was raised that the employees were not entitled to bonus. In rejecting this contention, the Court observed that the Act was not exhaustive and that the general law was not intended to be abrogated. But it was also observed that an intention to exclude could be gathered if it came within Section 32. A decision of the Additional Industrial Tribunal in Mysore. Bangalore, in the workmen of Indian Telephone Industries Ltd. Bangalore *Vs.* The Management of Indian Telephone Industries Ltd. (in A.I.D. No. 29 of 1966) cited by the Association goes further. In that case the dispute was raised by workmen in a public sector undertaking. It came directly under Section 32 (x) and was not covered by the exception in Section 20. The contention was urged on behalf of

the company that the claim for bonus was inadmissible under these provisions. It was held, overrulling this contention, that as the Act was not exhaustive and there was not prohibition therein, the claim was maintainable. Shri Sule contended that where the undertaking fulfilled the conditions mentioned in Section 20, the effect of it would be that as regards the quantum of bonus, it would be governed by Sections 10 and 11, and that where it did not fulfill those requirements, bonus will be payable but it will have to be determined under the general Industrial Law. The question thus raised is one of general importance and as bonus is not one of the matters specifically referred to me, it would not be right on my part to express my opinion thereon. And there is another reason why I should not deal with it in this case. The question of bonus arises only incidentally as one of the items constituting the wage packet. And moreover, the stand taken by the Bank all through has been that the employees would be given, in lieu of bonus, compensatory allowances amounting to two months' basic wages (*vide* Ex. A-132). That was also the position taken by the Bank before the Desai Tribunal. Therefore the real point for consideration is whether the total emoluments given to an employee would stand comparison with the emoluments paid to an employee in commercial bank taking bonus into account.

Family Allowance:

3.45 The Bank is at present paying its workmen employees in Classes II and III a monthly allowance at the rate of Rs. 10/- per child subject to a maximum of Rs. 30/- for three children. It is the contention of the Bank that this should be included in emoluments of the Reserve Bank employees for purposes of comparison. The unions oppose this on the ground that it is a contingent payment not available to all the employees. But they do not ask for its abolition; on the other hand, they demand that it should be enhanced. 'Family Allowance' forms one of the items of dispute referred for adjudication to me, and I am dealing with it separately in Chapter VI. *infra*. Therein, I am directing that all the employees should be entitled to it and that it should be paid at the rate of five per cent. of the 'pay'. In view of this direction, the objections of the unions to its inclusion in the emoluments of the Reserve Bank employees lose their force.

Special Pay:

3.46 In the Reserve Bank the clerical staff is classified into two grades and when a Clerk in Grade II is promoted to Grade I, he is paid an allowance of Rs. 12/- per month. It is stated on behalf of the Bank that in the normal course a Clerk in Grade II would be promoted to Grade I after 10 years of service, and it is contended that this payment should also be taken into account for purpose of comparison of the emoluments. The unions oppose this claim and say that there are many Clerks who have been in service for more than ten years who have not been promoted to Grade I, that this payment is not one which is available to all the employees and is too uncertain to be taken into account. There is considerable force in this objection. At the same time, as appears from the exhibits filed on the side of Bank, a large number of employees do get this payment and that cannot be ignored. Reconciling the conflict between the parties, I direct that all Clerks including Coin/Note Examiners shall be entitled to this payment on the completion of nine years' continuous service including therein also the period of temporary service. It is represented that even before the completion of nine years the Bank does promote Grade II Clerks to Grade I when there is a chance and grants him this special pay. It is not intended to impair that right of the Bank. I am also fixing the special pay at Rs. 20/- per month, instead of Rs. 12/- as at present.

Excess contribution to Provident Fund:

3.47 Under the Provident Fund Regulations of the Bank, every permanent employee has to subscribe to the Fund at a rate which is not less than five per cent. and not more than ten per cent. of the 'pay' which means, for this purpose, ninety per cent. of the basic pay and includes the full amount of personal pay, special personal pay, special pay, and officiating pay, if any, and the Bank makes a matching contribution. In commercial banks, the contribution is limited to 8-1/3 per cent. of pay. The contention of the Bank is that in assessing the emoluments in the Reserve Bank, the excess contribution by the Bank, should be taken into account. The unions dispute this claim and contend that only payments which are made *in presenti* at the end of each month should be taken into account. I am unable to agree. It is not in dispute that emoluments for the purpose of comparison should include not merely pay and dearness allowance, but

all payments to which the employee becomes entitled. If the Provident Fund cotribution of the bank is a fund to which the employee becomes entitled at the end of each month of service, when the pay accrues to him, it is difficult to see why it should be excluded from the calculation of total emoluments due to him. It is well settled that for the purpose of comparison, the emoluments are not limited to pay, strictly so called, and it must include all allowances to which the employee has a right. It is in this view that in the statements filed by both parties, house rent allowance has been included. In Greaves Cotton & Co. *Vs.* Its workmen (A.I.R. 1964 S.C. 689, 1964 I L.L.J. 342), the Supreme Court agreed with the contention that in comparing the emoluments regard should be had to the total wage-packet. That was again held in the Hindustan Antibiotics case (A.I.R. 1967 S. C. 948, 1967 I L.L.J. 114). It needs hardly to be stated that the very theory of superannuation benefits is that it is in the nature of deferred wages. I am, therefore, of the opinion that all the four disputed items aforesaid should be taken into account in the comparison of the total emoluments.

Consumer Price Index Numbers:

3.48 Before entering on a consideration of the scales of pay and special pay, I have to decide a point which may be said to constitute the very core of the wage-structure and one on which the parties are in sharp disagreement. It is as to the Consumer Price Index which ought to be taken as the basis for building up the wage-structure (that is basic wages and dearness allowance). While the Organisation and the Bank contend that it is the Consumer Price Index Numbers, for Urban Non-Manual Employees (hereinafter referred to as "the Middle Class Index") that should be the basis for fixation, the Association and the Federation maintain that the All-India Working Class Consumer Price Index (base: 1949=100) should côntinue as hereto before as the basis. How this question is material must now be explained. There were several working class surveys and on the basis of these surveys, the year 1949 has been taken as the base year, that is to say, for the purpose of measuring the rise in the cost of living, the cost of the goods and services, constituting the basket of the working classes as in 1949 is taken to be of the value of Rs. 100/- and for the subsequent years, the rise in the price of the same basket of goods and services is ascertained and the variations are expressed in relation to that of the base year in percentage. These figures are known as Consumer Price Index Numbers. So far, the wage-structure of the middle class employees have been fixed in terms of the Working Class scale of wages with 80 per cent. coefficient and the dearness allowance reckoned on the basis of the Working Class Consumer Price Index Numbers. In the year 1958-59, the Central Government undertook a comprehensive survey of the cost of living for both the middle class and the working class families and in 1964 Volume I of the Report of that Survey dealing with the middle class has been published. From 1966, the Index Numbers for the Middle Class and the Working Class are being published, as from the year 1961. Now, the dispute between the parties is as to which of the two indices is applicable in fixing the wage-structure of the Reserve Bank employees concerned in this dispute. The difference in the index numbers would have a direct bearing only on the quantum of dearness allowance. But a decision on this question has also an impact on the basic wages because the fixation of the pay scales so far has been on the basis of the Working Class Index with 1949 as the base-year and the application of the Middle Class Consumer Price Index Numbers would attract 1960 as the base-year for the fixation of pay scales. This controversy thus involves a decision on the question as to what should be the proper wages, if 1960 is taken as the base-year.

3.49. I must here refer to certain objections of a preliminary character raised by the Association to this question being considered. It is contended by Shri Sule that there was no dispute between the parties as to the class of index which should be applicable, that the Middle Class Index was not in the minds of any of the parties when they entered into the agreement for arbitration and that consequently, it is not a question which is open for consideration by me. It is further contended that the stand taken by the Bank, at the time of the argument, is in direct conflict with its pleadings. These contentions have first to be decided. I am unable agree that the point is not open for consideration by me for the reason that it was not within the contemplation of the parties at the time of arbitration agreement. The item referred to is simply "scales of pay and special pay". The dispute between the parties was as to what should be the pay to be given to the employees and how that pay is to be fixed is ancillary to it. The decision of a point might involve a decision on a number of issues and where the point is referred in general terms, it must necessarily comprehend all the issues which have to be determined before the point referred could be answered. What are the comparable concerns is, for example, an issue which has to be

determined in the fixation of wages. Can it be contended that it is not open to consideration because it has not been specifically referred? The true position is that fixation of scales of pay involves the determination of the principles on which pay scales have to be fixed, and a decision on the index which is applicable is one on one of the principles of wage fixation. I am, therefore, of opinion that on the terms of item 1 of reference, all questions which are relevant for coming to a conclusion on that item including the index applicable are open to consideration.

3.50. As regards the objection based on the pleadings the position is somewhat intriguing. The Association and the Organisation filed their statements on 27th March 1967 and the Federation on the 3rd April 1967. In its statement, the Association has expressly referred, in paragraphs 45, 69 and 76 to 79, to the Middle Class Survey in 1958-59, and worked out the expenses of a standard middle class family on the basis of the figures given in the Report of that Survey and the plea is then put forward "that the wages fixed by the Desai Award did not even adequately meet the requirements of an average middle class family". These pleadings clearly suggest that as the employees belong to the middle class, the Middle Class Survey Report should be taken as the basis for fixation of wages of a standard family. That is how the Bank understood it, and it proceeded to join issue with the Association on this point. It pleaded that the findings of the Middle Class Survey were not relevant, that the definition of the middle class family in the Survey Report covered a wide range and that the figures given therein were "far above any reasonable standards applicable to pure clerical workers". It is obvious that the Bank did not accept the Middle Class Survey Report as a proper basis for fixation. The matter does not rest there. The Association filed a rejoinder in which it stated that "with reference to the contentions of the Bank regarding Middle Class Family Living Survey, 1958-59, these are all irrelevant and therefore denied. The Association states that the members of the Association whom it represents before this Honourable Arbitrator are part and parcel of this Survey conducted by the Central Statistical Organisation Income groups Rs. 750—1,500 covered by the Sample Survey comprised only *less than* 10 *per cent* of the total families surveyed and the balance 90 per cent covered the income group of Rs. 0 to 750. This will clearly indicate that the bulk of the survey is in respect of the very categories of middle class clerical staff which comprise the bulk of the Class III employees of the Reserve Bank represented by the Association" (para 33). This is an unequivocal admission of the correctness, and of the applicability of the results of the Middle Class Survey to the employees concerned in these proceedings.

3.51. This is the position on the pleadings. At the time of the argument, the Association which opened the case was silent on this question. The Organisation which followed, strongly relied on the Middle Class Family Living Survey, 1958-59 and the Middle Class Index published as a result of the said Survey by the Central Statistical Organisation. The Bank in its turn accepted the Midle Class Survey, and the Middle Class Index as being the appropriate index applicable to the employees concerned in this dispute, and has filed a number of exhibits working out of scales of wages on the basis of that Report and the Index. In the reply, both the Association and the Federation strongly urged that it was only the working class index that ought to be accepted for fixation of wages and the question whether the Middle Class Index could be adopted was not within the reference and that the contention of the Bank was opposed to its pleadings. It would be clear from what has been stated above that the Association far from challenging the applicability of the Middle Class Survey Report has in fact relied upon it for fixing the pay scales. The criticism therefore that the argument of the Bank is inconsistent with its pleadings can with as much propriety, be levelled against its own stand. The fact is that it is only during the course of the hearing that the importance of the Middle Class Survey Report would appear to have been fully realised by the Association and by the Bank. The question has been directly raised by the Organisation and has been fully argued by all the parties, and it is covered by the general language of Items 1 and 5 and therefore I proceed to decide it on its merits.

3.52. The employees concerned in this dispute belong, all, to the middle class, That is common ground. Therefore it is only the Middle Class Index that should appropriately be taken into account in fixing the wages, and dearness allowance. Now, prior to 1949, there was no Middle Class Survey on an all-India basis, and the question accordingly arose before the Tribunals, as to the basis on which pay scales could be fixed for middle class employees. Justice Rajadhyaksha had to deal with this in an adjudication relating to the pay scales of the employees in the Post and Telegraph Department. He observed: "Prices of articles used by

different classes of the community such as working classes and middle classes may change by varying degrees. ....The varying importance of the different articles which go to constitute a typical family budget of a particular class of the community has to be determined and proper weights must be assigned to each individual item on the list. This is achieved by the construction of cost of living index series applicable to the different classes of the community based on detailed inquiries of family budgets in the respective classes. Unfortunately such series of cost of living index numbers are not available for many centres in India..........The amount of food, clothing, etc., which suffices for a person belonging to the working classes would, from the physiological standpoint, suffice even for a middle class man regarding him purely as a human machine. But the standard of life, the quality of the food which he consumes, his educational status, his habits of life, the kind of work he does and the nature and responsibilities of the duties he undertakes, have all got to be taken into consideration in fixing his remuneration. ......So far as the middle classes are concerned the difficulty is very considerable. There have been no official family budget enquiries with respect to lower middle classes and the non-official enquiries have not arrived at any particular figure as representing the present day cost of living for the lower middle classes" (paragraphs 70, 135 and 148). In the absence of data relating to the middle class family budget, the learned judge proceeded, adopting the suggestion of Shri S. R. Deshpande, to apply the working class family budget adding 80 per cent as coefficient. This was followed by Justice Divatia in his Bank Award.

3.53. The matter came up again for consideration before the Sen Tribunal. There the question arose as to applicability of the working class index to bank employees belonging to the middle class. Discussing the award of Justice Rajadhyaksha in the Post and Telegraph's case, the Tribunal observed that in view of the increase in the income of the working classes the coefficient must appreciably be less than 80 per cent. fixed by Justice Rajadhyaksha. Referring to the fact that Justice Rajadhyaksha had to proceed on the basis of the working class index as there had been no official family budget enquiries with respect to lower middle classes, the Tribunal went on to say that it was "more fortunate in having before it the detailed results of Mr. Subramanian's investigation into budgets of middle class employees of the Central Government for the period November, 1945 to August 1946" and proceeded to fix the pay scale on the basis of that report (page 30, para. 73). The Sastry Tribunal before which this question was again raised held that Mr. Subramanian's report was defective and was not helpful in fixing the pay scale of middle class employees and therefore it fell back on the formula adopted by the Rajadhyaksha Tribunal but reduced the coefficient to 66-2/3rd per cent. On appeal, the Labour Appellate Tribunal referred to the difficulty which "arose out of the absence of any family budget enquiry as to the lower middle class families" (page 49, para 67). It agreed with the Sastry Tribunal that the findings in Subramanian's report could not be of use as the purpose of enquiry was different. On the question of coefficient, it held that there was no good reason for departing from the percentage of 80, which had been accepted by both Justice Rajadhyaksha and Justice Divatia. The Bank Award Commission agreed with the views expressed by the Labour Appellate Tribunal.

3.54. In the commercial banks Award the Desai Tribunal dealing with this question observed: "It is necessary to have proper consumer price index number in order to ascertain the rise in the cost of living of any particular class of people. The present all-India working class consumer price index number is prepared only from the point of view of labour employed in factories. There is no similar all-India index for the middle class from whose ranks the members of the clerical staff in the banking industry are principally drawn" (page 88, para. 5.65). The Tribunal went on: "It is urged that the consumption pattern of the middle class population is somewhat different from the consumption pattern of workers in factories and that the application of the working class consumer price index number whilst considering the rise in the cost of living of the middle class does not seem to be proper" (page 88, para. 5.66). But it accepted the all-India working class consumer price index as "the only available barometer for the measurement of the pressure of price changes in the country on all all-India level" (page 89, para. 5.69). It should be mentioned that at the time of Desai Award, the Report of the Middle Class Survey had not been published. Thus, all the Tribunals which had to fix the pay scales of middle class employees had felt the need for a middle class survey and an index based thereon and that it was only because there was no such survey or index that they had to fall back upon the working class index as the next best course and apply it to the middle class with a coefficient. The Second Pay Commission, referring to the working class

index, observed; "We should, however, add that neither the old index nor the current one is designed to measure changes in the cost of living of the middle or higher classes. (page 9, para. 7).

3.55. Apart from the Tribunals, other authorities had also expressed the need for such a survey. In 1954, the Technical Advisory Committee on Cost of Living Index Numbers set up by the Ministry of Labour and Employment recommended that family budget enquiries should be conducted to cover among others urban middle class population. A similar recommendation was made by the Wage Board for Working Journalists in 1957. In view of the observations of the Tribunals, and in response to the recommendations of the Technical Advisory Committee on Cost of Living Index Numbers, and of the Wage Board for Working Journalists, the Government of India decided in November 1957 to carry out an Urban Middle Class Family Living Survey—(a) to facilitate construction of middle class cost of living indices, and (b) to ascertain the conditions and levels of living of middle class families; and entrusted it to the Indian Statistical Institute, the National Sample Survey and the Central Statistical Organisation, who were to act on the advice of the Technical Advisory Committee presided over by Professor P. C. Mahalanobis. The Labour Bureau of the Ministry of Labour and Employment of the Government of India was also associated with it. The Survey was carried out in 1958-59, and in 1964 the first volume of the Report on the Middle Class Family Living Survey, 1958-59 giving the statistical data with respect to income distribution and expenditure pattern of middle class families and conditions of employment and service of the middle class employees was published. The Central Statistical Organisation has since been publishing Consumer Price Index Numbers for Urban Non-Manual employees with 1960 as the base-year and these figures are available from 1961. It should be mentioned that in 1958-59, the Government also undertook a Family Living Survey of the Working Class along with the Survey of the Middle Class, and entrusted it to the Labour Bureau. The results of the Survey were tabulated and Index Numbers for Working Class with 1960 as the base-year are also being published for several centres. What is of importance is that for the purpose of co-ordinating the work of all the bodies entrusted with the conduct of both these Surveys and the compilation of Index Numbers, they have all been placed under the Technical Advisory Committee on Cost of Living Index Numbers. That is to say, whether the Survey and the Index related to the Working Class or Middle Class, the principles adopted therein would be the same.

3.56. Now the question before me is whether in fixing the pay scales and dearness allowance I should take the Middle Class Survey and the Index as the basis as is contended by the Bank and the Organisation, or whether the fixation should be, as contended by the Association and the Federation, on the basis of the Working Class Index with 1949 as the base year with the addition of a co-efficient. *Prima facie* when the employees concerned belong to the middle class and Consumer Price Index Numbers based on Middle Class Survey are available, it is they that should form the basis for fixation. It is not denied that the employees concerned in this dispute belong to the middle class. Nor is it disputed that the middle class has, notwithstanding that there are several levels in it, a pattern of life which distinguishes it from the working class. But what is said is that the Middle Class Survey, 1958-59 suffers from several infirmities which rob it of much value and that further the data given in the Survey Report do not furnish adequate materials on which the wage-structure can be built. Broadly speaking, the objections raised to the Survey and the Index Numbers might be classed into two categories, procedural, and substantive.

I. *Procedural Objections*:

3.57. The objections relating to the procedure adopted in the Survey will first be considered. They are—(1) that the sampling was neither adequate, nor representative; (2) that the interview method which was adopted is defective; and (3) that the field staff which collected the data did not possess the necessary technical qualifications. It is said that for all these reasons the results obtained by the Survey could not safely be acted upon.

3.58. The first objection is that the sampling was inadequate and unrepresentative and could not, therefore, be accepted. For a correct understanding of the true position, it is necessary to examine the procedure adopted in the Survey in the selection of the centres and of the families to be interviewed. On the subject of selection of centres the Report says: "There was nothing sacrosant about the number of centres to be selected. The selection was designed to provide a reasonable representation for the various politico-economic regions of the country with due regard to the administrative importance of the centres. Subject

to a minimum of two and a maximum of five per State, 45 centres were thus selected, with the number assigned to each State roughly proportional to the urban population of the State as per the population census of 1951. In selecting the centres, priority was given—first, to the national and state capitals; and second, to cities with a population of more than 5 lakhs which were not capitals". Then the Report proceeds on to give further details and concludes with the observation: "Selection of centres was thus largely purposive and based on judgement." (page 4, para. 4 of Volume I of the Report).

3.59. Dealing next with the topic of sampling in the selected centres, the Report says:

> "In the absence of readily available lists of middle class families in respect of each centre, uni-stage simple random sampling or any of its variants which depended on the preparation of complete lists, would be an uneconomic proposition. As an alternative, a two-stage sampling in which samples of urban blocks would be selected at the first stage and samples of families would be selected from the sampled blocks at the second stage, was preferred, as in that case listing of families would be limited to the sampled blocks.
>
> Expenditure pattern, which form the principle subject of study are subject to strong seasonal fluctuations. To eliminate the seasonal element, it was necessary either to survey the sampled families over a cycle of seasons through repeated visits or to spread the sample over the seasons in a randomised manner. The latter was preferred as it facilitated covering a larger sample than the former at the same cost and achieving greater precision in the estimates of annual averages. The survey was thus to be spread over a year and the sample of families staggered uniformly over the 12 months. This could best be done by organising the survey in 12 monthly sub-rounds, each sub-round based on a representative sample."

(Page 5, paragraphs 5.2 and 5.3 of Volume I of the Report).

3.60. Then again, "it was felt that the subject matter was so large and varied that it would not be operationally feasible to collect all the material from the same set of families without risking cooperation from the informants. The subject matter to be covered in the survey was, therefore, divided into two schedules, *viz.*, (A) Family budget, and (B) Conditions of Work and Living—the former covering income and expenditure and the latter covering other matters such as health, education, employment, conditions of work, housing, etc. The two schedules were to be canvassed on two different samples, not necessarily of the same size," (page 5, paragraph 5.4 of Volume I of the Report).

3.61. Referring next to the two-stage sampling the Report says:

> "the investigator had to list out all the middle class families in the selected blocks, draw a sample of the required size from the prepared list and collect the required information from the sampled families. The required sample of families could all be drawn a single urban block if the block was big enough and that would minimise the listing work. However, from the point of view of efficiency of design, it was considered desirable to make the primary sampling units internally as heterogeneous as possible. Clusters of blocks were, therefore, considered preferable to single blocks as primary sampling units. The bigger the clusters in terms of the number of blocks included, the more heterogeneous they could be made internally But that would increase the work of listing. A balance had, therefore, to be struck and it was decided that clusters might be formed of about 3 blocks each and as many clusters drawn in each sub-round as the number of sub-samples assigned to the centre.
>
> An urban block consisted on an average of about 150 house-holds. A cluster would thus comprise of about 450 households. Leaving out the time required for a complete listing of the households in a cluster of blocks, preparation of sampling frames and drawing the samples, an Investigator, according to the NSS experience, might be able to collect the scheduled information in respect of about 20 households per month. In a year, he would thus be able to cover 240 households. In accordance with the general decision in regard

to the relative intensity of sampling for Schedule A and Schedule B, it was decided to split up the investigator workload in the ratio of 3 : 1 and assign 180 households to Schedule A and 60 households to Schedule B.

As the minimum sample size suggested for Schedule A at the smaller centres was about 400 households, it followed that at least two investigators would have to be posted at each of the smaller centres. The sample size for the smallest centre was accordingly fixed at the two-investigator work-load of 360 households for Schedule A and 120 households for Schedule B. The sample sizes for the larger centres were also fixed in multiples of the investigator work-load."

(Page 6. paragraphs 5.7, 5.8 and 5.9 of Volume I of the Report).

3.62. The Report then sets out the procedure adopted in the selection of blocks for the purposes of the Survey. The National Sample Survey had prepared lists of urban blocks in connection with the census of 1951. These lists were taken up and modifications were made so as to make them up to date and suitable to the then existing conditions. The Report goes on: "Localities which were found to consist of very few middle class families were excluded from the frame. Blocks were arranged in the frame in a geographical order. For every sub-sample a systematic sample of 36 blocks was selected each with a different random start. In most cases blocks were drawn with equal probability but in some cases with probability proportional to approximate size. The sampled blocks were then regrouped into 12 clusters grouping together the 1st, 13th, and 25th, the 2nd, 14th, and 26th, etc. so as to ensure maximum geographic spread within each cluster. The 12 clusters so formed were assigned to the 12 months in a manner that would maximise the geographic spread of samples assigned to groups of consecutive months. All families in the selected blocks were to be listed, middle class families identified as per the working definition and sampling frames prepared for selection of families. However, in some cases it was found that areas which had been termed as blocks were too big to be completely listed during the time allotted. In some such cases the blocks were divided into a number of artificial blocks approximately equal with respect to the population content and one of them was selected at random with equal probability. In some others, a random order of visits to the selected blocks was assigned and investigators were asked to list only as many blocks as would give a minimum of 450 families of which at least 25 were middle class families, (Page 7 and 8, paragraph 6 of Volume I of the Report).

3.63. Then in Chapter IV, paragraph 4 of the said Report, figures are given of the number of families interviewed and of the total urban middle class population and the result is thus stated in terms of the percentage: "The total population of the 45 cities and towns covered in this survey is about 28 million according to the population census of 1961. This constitutes a little over a third of the total urban population of 78 million. It is possible to build up estimates of the number of middle class families in respect of each of the 45 cities covered in the survey on the basis of the survey itself. Estimates so built up are given in Table 4.1. These make a total of 8.2 lakhs approximately. An estimate of the total number of middle class families in urban areas independently built up on the basis of the estimates contained in table 4.1 by treating the selected cities and towns as a stratified sample of towns with a population of 50,000 or more and allowing for the unrepresented group of small towns as per the relevant results of the NSS also works out to near about 2-1/2 million. The total number of middle class families designed to be surveyed for Schedule A was 26,040 i.e. about 3 per cent. of total in the selected cities and towns and about 1 per cent. of the total in the entire urban area. The overall sampling fraction in fact varied from less than 1 per cent. in Bombay to as much as 18 per cent. in Jammu and Gulbarga." (Pages 14 and 15, paragraph 4 of Volume I of the Report). Now it is on this last observation that the complaint of the Association that the percentage actually selected for interview is very small and that therefore the Survey must be taken to be inadequate and unrepresentative, is founded.

3.64. Now it is abundantly clear from the passages quoted above that it was as the result of deep deliberation, and planning that the lines on which the Survey was actually conducted were settled; and in view of the fact that the persons in charge of the work had qualifications of the highest order, the quality of the Survey must be held to be unquestionable. It is commonsense—and it is also supported by high authority—that what matters in such surveys

is not quantity but quality. The following observations of Willam G. Cochran, Professor of Statistics, Harward University, are in point: "For instance, if S (variance) is the same in the two populations, a sample of 500 from a population of 2,00,000 gives almost as precise an estimate of te population mean as a sample of 500 from a population of 10,000. Persons unfamiliar with sampling often find this result very difficult to believe, and indeed it is remarkable. To them it seems intuitively obvious that, if information has been obtained about only a very small fraction of the population, the sample mean just cannot be accurate." ("Sampling Techniques", William G. Cochran, Chapter 2, paragraph 2.5, page 17). Another acknowledged authority on the subject, Moser, says: "Most people who are unfamiliar with sampling probably overrate the importance of sample size as such, taking the view that 'as long as the sample is big enough, or a large enough proportion of the population is included, all will be well.' The fallacy in this is clear as soon as one looks at any standard error formula, say (5.1) on p. 61 above. If the population is large, the finite population correction N-n/N-1 practically vanishes and the precision of the sample result is seen to depend on n, the size of the sample, not on n/N, the proportion of the population included in the sample. Only if the sample represents a relatively high proportion of the population (say, 10 per cent. or more) need the population size enter into the estimate of the standard error." (C. A. Moser on "Survey Methods in Social Investigation", p-151, para. 3).

3.65. This point came up for consideration by the Supreme Court in Ahmedabad Millowners' Association *Vs.* Textile Labour Association [1966 (1) S.C.R. 382, A.I.R. 1966 S.C. 497, 1966 I L.L.J. 1 at 23]. There the question related to the working class surveys conducted in Ahmedabad in 1958-59, and the contention pressed was that the sampling was inadequate and the index based thereon could not be accepted. In rejecting this contention the Supreme Court observed: "Reverting then to the objections raised by the appellants that the size of the sample was inadequate and the method of investigation was inappropriate, can it be said that the industrial court was in error in holding that these objections were not valid? In dealing with this question, it is necessary to bear in mind that the size of the sample has to be determined in the light of the permissible margin of error in the resulting series of consumer price index numbers. As Dr. Basu has observed:

> "In our country, this permissible margin of error in the index has been broadly set at 2 per cent." (A. Basu on "Consumer Price Index", pp. 54-55);

and that is not contradicted by the opinion of any other expert. The sample of consuming units has to be selected by the application of scientific sampling techniques; and there is no doubt whatever that during the last forty years, this branch of human knowledge has made remarkable progress. The optimum sample design is now worked out by competent statisticians in the light of the available material and requirements in each case, and as Dr. Basu has observed:

> "the desired data are secured at minimum cost and at an evaluation of sampling errors in the estimated data obtained from the survey."

It is the quality of the survey that is more important, not so much the size of the sample or the number of families with whom investigation was made.... Considering the question from a commonsense point of view, it seems to us reasonable to hold that if the quality of investigation has improved and the method of working out sample survey has made very great progress, then it would not be correct to say that because the size of the sample in the present case was smaller as compared to the size of the sample taken in 1926-27, the inadequacy of the size on the subsequent occasion introduces an infirmity in the investigation itself." Judged by these criteria, the sampling in the instant survey must be held to be sufficiently adequate, qualitative and acceptable.

3.66. The second objection raised by the Association is that the interview method and the other the interview method. The former consists in asking as a safe basis for determining the wage structure. There are two methods for collecting data for statistical purposes. One is the account keeping method and the other the interview method. The former consists in asking selected families to maintain accounts of the expenditure incurred by them for purchasing the goods and services forming the 'family basket' for a stated period. The interview method consists of interviewing representatives of the selected families as to the expenses incurred by them in purchasing the goods and services which enter the 'family basket'. The enquiry would relate to income and other matters also; but we are primarily concerned here with the expenditure pattern of the family. It was the interview method that was adopted in this Survey. The Report itself shows an awareness of the defects of the system, and says

that the tendency is for persons interviewed to over-rate their expenses and under-rate their income and it is on this observation that the objection of the Association is founded. Now, it is no doubt true that the interview method is open to this criticism. But is it so substantial as to render the results of the Survey undependable? It is the considered opinion of Statisticians that this method could be accepted subject to due allowance being made for the defects. It appears that while the account-keeping method is generally followed in the United Kingdom, it is the interview-method that is generally adopted in Canada and United States. The Report of the Sub-Commission on Statistical Sampling to the United Nations Statistical Commission says on a comparison of the interview and account book methods: "It may be noted here that the account book method cannot be applied in all circumstances—it is useless, for example, where illiteracy is widespread and is in any circumstances likely to result in a much greater degree of non-response, or of failure to complete the records over the required period." Taking the same view the Supreme Court observed in Ahmedabad Millowners' Association *Vs.* Textile Labour Association [1966 (1) SC.R. 382, A.I.R. 1966 S.C. 497, 1966 I L.L.J. 1 at 25]. Besides, as we have just indicated even on the merits, expert opinion seems to suggest that if the interview method is properly adopted, it gives better results than the alternative method of account books."

3.67. Before the S. K. Das Commission, which was constituted for enquiring into the question of dearness allowance payable to Central Government employees, the point came up for consideration whether the Middle Class Survey, 1958-59 was open to objection on the ground that it had adopted the interview method. Dealing with it, the Commission observed: "The method followed was the interview method which has this disadvantage *viz.* a general desire of the persons interviewed to deflate the income and inflate the expenditure. In spite of this defect, however, the results obtained by this survey give a very fair idea of the economic position of middle class families in the country at the present time" (page 22). I am satisfied on these authorities that the interview method can, notwithstanding its defects, be accepted as the basis for building a wage-structure.

3.68. Apart from this, if there is an error in this method, to whose disadvantage does it operate? Not the employees, because, if the tendency of the persons interviewed is to exaggerate his expenses, that would only support a claim for higher wages on the basis of the need-based formula. It might be noted that in the Ahmedabad Millowners' Association case, referred to above, the objection to the acceptance of the interview method was put forward by the employers. That is understandable. But I am unable to see how the employees could be prejudiced if the interview method is adopted. Moreover, the choice now is between a Middle Class Survey and a Working Class Survey. When both of them are based on the interview method, the objection that the Middle Class Survey is based on interview method loses all its force.

3.69. The last objection of the Association is that the field staff lacked the technical qualification required for the work. This is based on the following statement in the Report: "The field work of the middle class family living survey was entrusted to the NSS as an *ad hoc* programme with an *ad hoc* staff at the level of the investigators" (*vide* Ex. A-133, paragraph 3.2). The answer to this objection is to be found in the Report itself. At the stage of recruitment, no technical qualifications were insisted on for the field staff, as their employment was of a temporary character. But care was taken to give them the necessary training and moreover their work was subjected to thorough scrutiny by their superiors who were highly qualified. This is what the Report says, with reference to this:

> "Before the field work was initiated, the schedules and instructions were explained in detail to the Assistant Directors and the supervisory cadres at a training conference held at the Indian Statistical Institute. This was followed up by regional training camps at which the investigators and inspectors were given intensive training in regard to the field operations. Representatives of the Central Statistical Organisation, the Indian Statistical Institute and senior officers of the National Sample Survey participated in imparting the training at both the levels.
>
> In the initial stages, field scrutiny of the filled-in schedules was followed up by a sample scrutiny of the schedules by representatives of the Central Statistical Organisation and supplementary instructions were issued to clarify the requirements. The schedules were scrutinised

again for quality check at the Indian Statistical Institute before they were finally taken up for tabulation."

(Page 9, paragraphs 3.2 and 3.3 of Volume I of the Report). In the result, I am unable to attach much weight to the procedural objections raised by the Association and the Federation.

11. *Substantive Objections.*

3.70. I shall now deal with the objections to the Survey which are substantive in character. The first objection is as to the definition of a 'middle class family'. Explaining the scope of the Survey, the Report says "as a working basis the survey under report was delimited to cover families of non-manual employees engaged in non-agricultural activities in urban areas," (page 3, para. 1, Volume I). Now the criticism is that this is negative in character and that it ignores the positive contents of the concept of middle class. The answer to this is to be found in the opening remarks, which are as follows: The term "middle class" "generally denotes a not too homogeneous section of the population made up chiefly of white collar workers in Government, salaried employees of mercantile, industrial and financial establishments, small industrialists and traders, professionals and other intellectual workers with moderate incomes. The features they have in common are the educational standards, disinclination towards manual work, modes of living and pattern of family life. The definition of middle class thus has to take into account many factors which frequently cut across one another and cannot be identified with the middle income group" (page 3, para. 1, Volume I). It is not disputed that this accurately defines the middle class but what is said is that all this was lost sight of when the Survey came to be defined negatively as non-manual and non-agricultural. But the expression "non-manual" is used compendiously for distinguishing the middle class from the working class and further it carries with it the connotation of an educational standard and disinclination towards manual work. The position is further made clear in paragraph 7, page 13 of Volume 1 of the Report which is as follows: "Primarily "manual" jobs were defined as those involving mainly physical labour and "non-manual" jobs as those involving mainly intellectual work. If a job, though essentially involving physical labour, required a certain level of general, professional scientific or technical education, it was treated as "non-manual". On the other hand, jobs not involving much of physical labour, but at the same time not also requiring much of an educational background, were taken as "manual". In terms of the occupational classification in use, the following occupational groups were listed as non-manual:

(a) Professional, technical and related workers;

(b) administrative, executive and managerial workers;

(c) clerical and related workers (except unskilled office workers such as peons);

(d) sales workers (except hawkers, pedlars and street vendors);

(e) farm managers, Inspectors and Overseers;

(f) deck officers, engineers and pilots of ships; air craft pilots, navigators and flight engineers; conductors, guards and brakesmen on railways; inspectors, supervisors, traffic controllers, despatchers (except signalmen and pointsmen) ticket collectors and examiners connected with transport; telephone, telegram and related telecommunication operators;

(g) police investigators and related workers; customs examiners, patrollers and related workers; atheletes, sportsmen and related workers; photographers and related camera operators."

3.71. But then, it is said, the other factors *viz.* modes of living and pattern of family life have not received sufficient emphasis. This comment again is without foundation. It has already been pointed out that the work of Survey was divided into two Schedules 'A' and 'B', that the former related to income and expenditure and the latter to such maters as health, education, employment, conditions of work, housing, etc. While Volume I of the Survey Report relates to the former, Volume II deals with the latter. Thus, the Survey related to all the features of middle class life. It must accordingly be held that the said Survey Report is not open to objection on his ground.

3.72. It is next contended that the definition of middle class comprehended within its purview not only the clerical staff with whom we are concerned but persons belonging to many other occupations and that an assessment made on

the basis of several diverse and dissimilar occupations cannot safely be accepted as furnishing a proper basis for the clerical staff. This contention proceeds on a misconception as to the true concept of middle class. What distinguishes the middle class from working class is the pattern of life of its members. It is physical labour that is the primary features of the working class and it is intellectual work that is the distinguishing feature of the middle class. As a result of this fundamental distinction, the patterns of life of the two classes are also different. Therefore in determining whether a person belongs to the middle class what matters is not his occupation but the pattern of life he leads. Thus, a professional doctor, or a lawyer, or an engineer, or an employee in the bank would all of them be classed as middle class notwithstanding that they pursue different occupations. The crucial test is, what is the pattern of life followed by them?

3.73. It has been already mentioned that Justice Rajadhyaksha has emphasised the distinction between the working class and the middle class as turning on their respective patterns of life and it is on this distinction that the decisions of the tribunals dealing with the question of middle class wage-structure are based. The same distinction has been pointed out in the Report of the S. K. Das Commission *vide* page 24, the Gajendragadkar Commission (Final) Report (*vide* page 35, para. 7.2) and in the decisions of the Supreme Court in Jardine Henderson Ltd. *Vs.* Their workmen (1961 I L.L.J. 641 at 643), and in the case of Jessop & Co. *Vs.* Their workmen (1964 I L.L.J. 451 at 454).

3.74. It has already been mentioned that during 1958-59 there was a simultaneous Survey under the same auspices, of both the Working Class and the Middle Class Family Living. The basis on which the two classes were distinguished is thus bought out in the Middle Class Survey Report:

"A comparison of the average income and expenditures of middle class families with those of working class families in the same cities reveals that the average incomes/expenditures of middle class families are about 2 to 3 times those of working class families. The incomes and expenditures of the lower middle class which are roughly about half the overall level may, therefore be regarded as slightly higher up, if at all, as compared to the working class.

As compared to the working class, the middle class population shows a distinctive expenditure pattern even at the same level of income. The bottom 25 per cent. of the middle class population, whose incomes are comparable to those of the working class population, spend about 50 per cent. of their resources on food, about 30 per cent. on fuel, housing and clothing and 20 per cent. on miscellaneous items such as education, medical care, etc. The working class families are known to spend comparatively more on food and correspondingly less on other items. On the other hand, the lower middle class families seem to still conform in their expenditure pattern to the traditional values attached to better housing, better clothing, better education and better medical and personal care, a feature which distinguishes them from the working class population."

(Page 47a, paragraphs 5 & 6 of Volume I of the Report). It is also worthy of note that among the occupations covered by the Middle Class Survey, it is the clerical and related workers who form the major group of employees. This is what the Report says on this point: "Roughly one might assume that about half the employed population in the urban areas consists of employees. The same Report shows that among the employees, 26.5% belong to the occupational categories listed below:

(a) Professional, technical and related workers	..	7.76%
(b) Administrative, executive and managerial workers	..	2.59%
(c) Clerical and related workers (except unskilled office workers)	..	10.86%
(d) Sales workers	..	5.30%

These four categories account for the bulk of the middle class population of our definition" (*vide* page 14, paragraph 2, of Volume I of the Report). The criticism, therefore, that the inclusion, in the definition of middle class, of not merely the clerical staff but persons belonging to other occupations, renders the Survey unsuitable for the purposes of this adjudication, must be rejected.

3.75. Another criticism which is levelled against the Middle Class Survey Report is that it has grouped together in one class persons whose incomes range from Rs. 0 to Rs. 1500/- and above and that the disparities between the different income groups are so great that no useful purpose will be served by a survey which treats them all as belonging to one class. It is undoubtedly true that the

middle class consists of several strata with different levels of income and in this respect it differs from the working class, which can be said to be fairly homogeneous. But what follows from this? If consumer price index is to be compiled solely on the basis of the income level, and is to be controlled and limited by it, it would mean that there can be no index at all for the middle class as such and that it is the working class index with a coefficient that must always be the determinant for that class—a conclusion which on the face of it carries its own condemnation. On the other hand, when once we accept the definition of a middle class as based on the pattern of living, it is possible to reconcile it with different levels of income by suitable adjustments in the pay scale. When an employee enters service, he would, on the basis of his pay, belong to one of the lower levels in the middle class. Progressively with the number of years which he puts in service his pay will increase, and he will be passing on from lower to higher levels and then at the time of his retirement, he will, on the basis of his income, belong to a much higher level of middle class than the one on which he started. Thus, it is inherent in the very nature of service that an employee should pass through different pay ranges and different middle class levels. Indeed, the advantage of framing one Middle Class Index on the basis of different ranges of income is that it can appropriately be adapted to the different pay scales at different stages in the service of an employee. Therefore, the fact that the 1958-59 Survey of the Middle Class has taken into account different groups with different income levels and worked out an average thereof does not detract from its value or affect its suitability for fixing a middle class wage-structure. That is, as already stated, the stand taken by the Association in its rejoinder.

3.76. Reference must be made in this context to Exs. B-65 to B-67 filed by the Bank. Therein it has classified the employees concerned in this dispute broadly into two categories, the clerical staff, whose income ranges from 150 to Rs. 500 and the Assistants, whose pay ranges from Rs. 300 to Rs. 750. It has worked out the scales of pay on the basis of an average of income groups within those respective limits. The Association and the Federation have challenged the correctness of the figures given in the above exhibits. They contend that the calulation of the average is defective; that while for the purpose of determining the expenditure, the income groups from Rs. 150 to Rs. 750 have been taken into account, when the question is as to the number of wage-earners per family and the average length of service, all the income groups have been taken into account; that it is not clear on the face of the Report whether among the wage-earners in the family, females have also been included, and that further the average duration of the period of employment has been calculated with reference to all the establishment in which the employee might have successively served but that it should be limited to the service in the present establishment only. These objections are not without some force. The Bank has, in answer, filed Ex. B-161 wherein it seeks to make out that the figures as given in Exs. B-65 to B-67 are, if anything, biased in favour of the employees. The question as to how the averages have to be worked out and what the correct figures would be, do not arise for decision here, because they have a bearing only on the question as to what is the proper pay scale to be fixed, on the data furnished by the Survey Report, whereas the point now under consideration is whether the Report and the Index are unreliable for want of the necessary data.

3.77. It may be noted in this connection that so far as the monthly index for the middle class with 1960 base-year is concerned—and that is what is material in the present case—it is based on the expenditure pattern of Rs. 100 to Rs. 750 income groups and it is within this group that substantially the employees concerned in this dispute fall. Table 5.1 of the Middle Class Survey Report Volume I at page 20, shows the percentage distribution of middle class families by monthly income. It is as follows:

Monthly income	Major cities	Minor cities	Towns
Rs.	(4)	(7)	(34)
0—75	0·79	5·50	5·73
75—100	3·08	9·12	11·06
100—150	13·10	22·62	25·72
150—200	17·37	18·97	20·30
200—300	24·99	23·07	19·12
300—500	23·79	14·08	12·03
500—750	8·75	4·35	3·82
750—1000	3·66	1·21	1·14
1000—1500	2·83	0·72	0·70
1500 & above	1·61	0·36	0·38
Total	100·00	100·00	100·00

In the above group if we take income group Rs. 150—750, it will be found that the percentage of the middle class within this group is 74·90 in the 4 major cities of Bombay, Calcutta, New Delhi and Madras, 60·47 in 7 minor cities and 55·27 in other towns. In other words, it is this income group which forms the substantial majority of the middle class, and therefore an average worked out on the basis of these figures given in the Survey Report for these income groups would properly be applicable to the clerical staff now concerned in this dispute. I should, therefore, hold that the Report is not open to objection on the ground that it deals with several income groups having large differences.

3.78. It is next contended for the Association that it is not possible on the strength of the Survey Report, to come to any definite conclusion as regards family expenditure as the necessary particulars therefor are lacking. Now what the Report contains is (i) the per family and *per capita* expenditure of the average family in each of these centres; (ii) the expenditures of the average family in each income groups and (iii) the expenditure on the several heads making up the family budget, that is the 'basket of goods and services' for the average family in each income group in each centre. It should particularly be noted that the Report gives the results obtained by the Survey with respect to all the matters covered by the expenditure pattern and if they are correct, there can be no doubt that they are sufficient and adequate for evolving a correct picture of the expenditure pattern. But the criticism of the Association is that the published Report does not set out the materials on which the above results have been reached and that in the absence of information as to what was the quality or quantity of the goods, whether clothes of the proper quality were taken into account, whether the housing charges related to the proper type of tenements and how the budget for educational expenses was made up, and so forth, it is impossible to verify the correctness of the findings. The objections are thus summed up in paragraph 48 of Ex. A-134: "The final chart for all-India showing the items of goods and services with qualities, quantities, units for prices for each of these and the weight for each is not published at all. Without this final chart, the Index cannot be accepted by any statistical convention.".

3.79. I am not impressed by this contention. The procedure to be followed in Surveys of Family Living is well settled. It is set out in several authoritative works. In "A Guide to Consumer Price Index Numbers" published by the Labour Bureau, Ministry of Labour and Employment, Government of India (September, 1960), the several stages to be followed in compiling an index are set out in great detail. Firstly, the several items which go to make up the family budget are classed under different groups such as Food, Fuel and Light, Clothing, Housing and miscellaneous. Under each group the several articles falling within that group are set out. The first thing that is done is to select representative articles from each group and ascertain their price in the period of the Index in relation to the base-year. After this process is completed with reference to all the groups, then the unpriced articles in each group are taken up and their prices are imputed in accordance with well-established statistical rules. The total price thus obtained for each group is reduced to a percentage and a proper weightage is given to each of the article in the group. Finally, all the groups are taken together, due weightage being given to each of them in percentage. This is how the weightage diagram is drawn up and that forms the basis of the Index.

3.80. Now, we have before us the published Survey Report and also the Index Numbers from 1961 onwards. What has not yet been published is the price for the several items in the different groups, and the details leading up to the weightage diagram on which the published index is based. There is no suggestion before me that the usual procedure has not been followed. Ex. B-70 is a copy of the note published by the Central Statistical Organisation on the Middle Class Index. It gives in detail the procedure adopted in the compilation of the index and as it gives the answer to the objections on this score, I am setting it out in extenso:

"7.1. *Weighting diagram.*—The weighting diagram for the index of each centre is based on an average expenditure pattern of families in the income range of Rs. 100 to Rs. 750 per month deriving a major part of their income from non-manual employment in non-agricultural activities as revealed by the middle class family living survey during 1958-59. Non-consumption and non-priceable expenditures such as subscription, taxes, interest, litigation, remittances, savings, re-payment of debts etc., have been excluded from the weighting diagram. Alcoholic beverages are also not included. The expenditures on unpriced items are added to the expenditures on priced items either by direct imputation to the related item or through a proportionate distribution over all priced items of the sub-group. Expenditures on sub-groups not represented in the index are likewise distributed over sub-groups represented within a group.

7.2. *Classification*.—The index for each centre includes approximately 130 priceable items of goods and services. These items have been grouped into five main groups and 23 sub-groups as follows:

I. Food, beverages and tobacco:

Cereals; pulses; oils and fats; meat, fish and eggs; milk and milk products; condiments and spices; vegetables; fruits; sugar; non-alcoholic beverages; prepared meals and refreshments; pan-supari and tobacco.

II. Fuel and light.

III. Housing.

IV. Clothing, bedding and footwear; Clothing and bedding; footwear.

V. Miscellaneous:

Medical care; education and reading; recreation and amusement; transport and communication; personal care and effects; household requisites; others etc.

7.3. *Retail prices*.—Retail prices are collected every month in respect of 180 items from 36 shops in Calcutta and Bombay, from 24 shops in each of the nine centres *viz*., Hyderabad, Poona, Nagpur, Ahmedabad, Madras, Bangalore, Lucknow, Kanpur and Delhi—New Delhi. In each of the remaining 34 centres, prices are collected from 12 outlets every month. In view of the growing importance of the fair price shops and cooperative stores, price quotations are also collected from them in each centre where they exist; and due representation is given in the index to these quotations along with the open market prices.

7.4. Specifications to be priced in respect of each item have been fixed separately in respect of each outlet depending on availability; and identity of specification is maintained in each case as long as the specified variety is available. If and when it ceases to be available in the selected shop as well as its neighbouring shops, it is substituted by another popular specification available in the selected shop. Whenever a substitution is made, the price of the previous month is also collected in respect of the new specification/outlet to provide for linking with the preceding series. While temporal (overtime) comparability of specification is maintained at the outlet level, the specifications priced at the various outlets are not necessarily the same. This system facilitates coverage of more than one variety in respect of each item while maintaining comparability overtime. The sample is staggered uniformly over the month for collection of price quotations and covered in the same order each month so as to maintain a gap of one month between any two successive quotations from the same shop in each series." [*vide* pages (iv) and (v), paragraphs 7:1 to 7:4 of "Monthly Abstract of Statistics" for August, 1966, published by the Central Statistical Organisation, Department of Statistics, Cabinet Secretariat, Government of India, Volume 19, Number 8]. In the face of those detailed instructions which must have been followed in the Survey, it is impossible to contend that the Index Numbers cannot be accepted for the reason that the data on which they are based have not been published.

3.81. Another contention advanced in support of the position that the data given in the Survey Report cannot be relied upon is that a middle class survey was conducted in Bombay in the year 1949 by the Indian Statistical Institute and that the results of that survey are at variance with those of 1958-59 Survey. Thus, the expenditure on food, for a middle class family of 4·3 in Bombay was Rs. 131·43 and it is said that what was Rs. 131·43 in 1949 would be Rs. 171 in the year 1958-59, whereas the corresponding figure in the 1958-59 Survey is Rs. 147·85 (*vide* para 10, Ex. A-150). From this and similar data, it is argued that the results of the Survey of 1958-59 must be held to be not reliable. One is tempted to ask, if one of them must be rejected as unreliable, why that should be the 1958-59 Survey and not 1949 survey? But the more correct approach is to treat them both as reliable, but not as comparable, not merely because they were held at different periods but also because the lines on which the two surveys proceeded were different. The 'Middle Class' for example, was defined for the purpose of Bombay Survey of 1949 as covering families whose heads were salaried employees and who occupied tenements on a rent of Rs. 16 to Rs. 75 whereas according to the 1958-59 Survey it means families who derive 50 per cent. or more of their income from gainful occupations as employees in non-manual work in the non-agricultural sector. Again the expenditure tables in the two Surveys proceed on different lines. In the 1949 Survey the expenditure of all the persons living in the tenement is taken into account. But, in the

1958-59 Survey, it is only that of the members of the 'Family' that are included. In view of these differences, the results obtained in the 1949 Survey cannot afford a proper basis for comparison with those of the 1958-59 Survey. Further, there is the question of correlation of the figures given in the 1949 Bombay Survey and the all-India figure given in 1958-59 Survey. The Bank has filed Ex. B-159 for showing that on the basis of the figures as worked out therein, the figures of the 1958-59 Survey compare favourably with those of the 1949 Bombay Survey. In my view no conclusion can be drawn from a comparison between 1949 Bombay Survey and the Survey of 1958-59 with which we are concerned.

3.82. The Association has preferred an objection that in ascertaining the price of the goods included in the basket, it is the controlled price that has been taken into account but that experience shows that one has to resort to blackmarket and pay a higher price therefor. Reliance is placed in support of this contention on a note in the Monograph of the Labour Bureau published by the Government of India in the year 1953. But it is stated by the Bank in Ex. B-164 that the procedure set out in the said monograph is not in practice now in the case of the working Class Index. In my view, there is no substance in this objection.

3.83. Next, it has been contended that the Middle Class index is, as compared with the Working Class Index, sluggish in its movements and great injustice would result if that is adopted. Exs. A-135 and A-136 have been filed for showing that the Working Class Index shows a greater rise in the numbers than the Middle Class Index. This contention leads us nowhere. If the Working Class and the Middle Class are two different categories having distinct patterns of living their respective indices must necessarily move in different orbits and the fact that one of them shows a higher rise can have no bearing on the application of the other. In *Jardine Henderson Ltd., Vs. Their Employees* (1961 I. L.L.J. 641 at 643) the claim was made on behalf of the subordinate staff, who belonged to the working class, that their dearness allowance should be based on the middle class index numbers published by the Bengal Chamber of Commerce. This was rejected by the Industrial Tribunal on the ground "that the difference between middle-class cost of living index and working-class cost of living index lay in the stress which is placed on different items of necessities" and that "the subordinate staff could not have any grievance on that score and could not therefore ask for dearness allowance linked with middle-class cost of living index". Agreeing with this reasoning, the Supreme Court rejected this contention. See also the decision in *Workmen of Jessop and Co., Ltd., Vs. Jessop and Co., Ltd., and Others* (1964 I. L.L.J. 451 at 454). If as held in the above decisions, it is not open to the Working Class employees to contend that the Middle Class Index should be applied to them, if it is higher, it would likewise not be open to the Middle Class employees to ask that the Working Class Index should be applied to them when that is higher. It should be remembered that the goods and services that enter into the middle class 'basket' are not the same as those that enter into the working class 'basket' and the two indices which are related to the respective baskets can be appropriately applied only to their respective basket. It may be mentioned in this connection that from 1961 to 1964, it was the Middle Class Index that showed a more brisk movement and it is only from 1965 onwards that the trend has shifted. Surely, it cannot be contended that for those years in which the Middle Class Index is higher, that should be accepted, but, for the years in which the Working Class Index is higher, that should prevail.

3.84. A word of explanation is needed as to how the difference in the two indices arises. In the Working Class Index, it is the essential articles of food, such as wheat, rice, that have substantial weight. But, in the case of the Middle Class, its weightage is comparatively less and instead there are other elements which are the distinguishing features of the pattern of Middle Class life. It is this difference in weightage that is the source of the difference between the two indices. There has been latterly sharp rise in the price of wheat, rice and other similar essential articles of consumption, and it is this that accounts for the higher rise of the Working Class Index from 1965. It is conceivable that with the greater emphasis now laid on agricultural production, the price of the essential food grains might come down and the Middle Class Index might again rise above that of the Working Class. But, as already stated, this is not a factor that can be taken into account in deciding whether the Middle Class Index should be accepted as the basis for fixation of wages.

3.85. Another contention of the Association similar in character is that in the commercial banks dearness allowance is given on the basis of the Working Class Index, and that if now the Middle Class Index is to be adopted in the Reserve Bank, it will be out of step with the commercial banks, and would stand

alone and apart. I see no force in this contention. All the banks have right through adopted the Working Class Index as no all-India Middle Class Index was available. It is only from 1966 that that is being published and the question of settling a wage-structure (basic wages and dearness allowance) for the middle class employees in banks in terms of the All-India Middle Class Survey and Middle Class Index, arises for the first time in these proceedings. The commercial banks will have to deal with this question hereafter. That the Reserve Bank has been called upon to deal with it first is not a ground for refusing to do so. Indeed, it is fitting that the Reserve Bank whose role is to give a lead to the other banks should do so first.

3.86. The Middle Class Survey Report 1958-59 came up for consideration by the S. K. Das Commission and the Gajendragadkar Commission. In dealing with the question whether having regard to their pay scale, the middle class employees have enough cushion left to meet the impact of the rise in the cost of living, the Das Commission referred to the data given in Volume I of the Report of the Middle Class Survey, 1958-59 and on an analysis of statements 13 and 14 therein, held that no cushion remained (*vide* pages 22 and 23 of the Das Commission Report). Then there is the Report of the Gajendragadkar Commission. There the question related to the grant of dearness allowance to Central Government employees. Some of them belonged to the middle class but the large majority belonged to the working class. The question arose as to the basis on which dearness allowance should be fixed. A contention was put forward that as Class III employees belonged to the middle class, it is the Middle Class Index based on 1958-59 Survey that should be applied. To understand the decision of the Commission thereon, it would be useful to refer to the Class-wise percentage grouping of Central Government employees, given by the Second Pay Commission, which is, as worked out from Table II of Chapter III, Part I of its Report, as below:

Class	Middle Class		Working Class
I	0·59		—
II	1·09		—
III	31·19		—
Others	1·71		—
IV	—		39·08
Workshop Staff	—		26·34
	34·58	+	65·42 = 100.

It will be seen from the above that the entire percentage of the middle class employees is 34.58 per cent. of whom the Class III employees are 31.19 per cent. As against this, the strength of the Class IV and workshop group of employees comes to 65.42 per cent. The Gajendragadkar Commission pointed out that about 65 per cent. of the employees "have an expenditure pattern akin to that of the working class" and that as for the middle class employees numbering about 35 per cent., "If a refinement is required for adjusting dearness allowance, all that could be done would be to give a weightage of 65 per cent. to the Working Class Index and 35 per cent. to the Non-Manual Employees Index and work out a new series of indices for adjusting dearness allowance. We undertook this exercise for the 6 years for which the two series are available and have come to the conclusion that the combined series behaves more or less in the same way as the Working Class series. We, therefore, consider that it is not necessary to combine the two series for determining the dearness allowance for employees," (page 35, para. 7.3). It is the contention of the Association that this amounts to a rejection of the Middle Class Index by the said Commission. That is not how, I read it. Far from rejecting it, the Commission proceeded on the footing that it was correct, then worked out the figures on the data furnished therein and held that a combined reading of the Working Class Index for 65 per cent. and Middle Class Index for 35 per cent. did not yield any result substantially different from the Working Class Index. Thus, both the Commissions which had occasion to consider the Middle Class Survey would appear to have treated it as not open to objection.

3.87. It remains to deal with the contention of the Association that before the Middle Class Index could be adopted, the linking factor between the 1939 price level and that of the base-year 1960 must be established and as that has not been done, the Middle Class Index cannot be accepted. The observations in paragraph 7·5 of the Gajendragadkar Commission's Report are relied on, in support of this position. This contention proceeds on a misapprehension. The argument before the Gajendragadkar Commission was that there had been a Working Class Survey in 1958-59 and that it was that Report and the Index Numbers based thereon with 1960 as the base-year that ought to be taken into account, and not the 1949 Working Class Index. In rejecting this contention, the Commission observed: "In view of the facts mentioned above, we recommend that the index to be used to determine the dearness allowance should continue to be the All-India Working Class Consumer Price Index (1949 = 100), until such time as the Working Class Series (1960 = 100) is prepared, published and accepted, with a suitable linking factor." Here the linkage was between the Working Class Index with 1949, as the base-year, and the Working Class Index with 1960 as the base-year. The position would have been analogous, if a Middle Class Index had been already in force with an earlier base-year and the Middle Class Index is sought to be changed to a new base-year. It would have, then, been necessary to ascertain the linking factor between the previous base-year and the year to which it is shifted. But in the present case, it was only the Working Class Index that had been applied to the Middle Class down to 1960 and what is sought to be done is not a shift from that Index to the Working Class Index 1960—which was what was considered by the Gajendragadkar Commission—but the adoption of the Middle Class Index for the first time. What has to be done in this situation is to ascertain the value of the 'basket' of goods and services of the Middle Class in 1960, adopt it as the base and then take the Middle Class Index figures for subsequent years as reflecting the changes in the cost of living. There is, therefore, no question of linkage.

3.88. I have discussed the question whether the Middle Class Index could be accepted as the basis for fixing the dearness allowance for the middle class employees in the Bank, at some length as all the parties have emphasised before me that this is the first occasion in which the Middle Class Survey, 1958-59 and the Index based thereon has come up for adjudication. With a view to present a full and correct picture of the Survey, I have let the Report speak in its own words, though that has involved incorporation of long extracts. I have also quoted passages from authoritative treatises on the subject and from judgments of the Supreme Court and the judicial Tribunals rather profusely. In my view the Report and the Index should be accepted, as they furnish the requisite data for fixation of the basic pay and dearness allowance of the middle class employees.

Base Year:

3.89. On my finding that it is the Middle Class Survey Report and the Middle Class Index Numbers that must form the basis for the construction of the wage-structure, it follows that the base-year for fixing the pay scale should be 1960 because the Middle Class Survey was completed in 1959 and the Consumer Price Index Numbers based on that Survey are available from 1961 onwards. The Organisation, however, has in its statement claimed that 1965 should be taken as the base-year and has worked out a pay scale on that footing. According to the method adopted by the Organisation, while 1965 is the base-year for fixing the pay scale, it is 1960 that is the base-year with respect to dearness allowance. This is as anomalous as it is novel. It is fundamental to the concept of a base-year that dearness allowance should be calculated in terms of it. The two are correlated and cannot be divorced. I should and that the Organisation has, in its reply, submitted that it would be content if 1960 is adopted as the base-year for the purpose of fixation of pay scale and has worked out the figures on that basis (*vide* para 6 of Ex. 0-60, and Exs. 0-62 and 0-66). The fixation of wages will accordingly be on the basis of the Middle Class Survey with 1960, as the base-year.

3.90. Before taking up the fixation of wage scales, it is necessary to decide certain questions bearing on it. They are—(1) the application of the need-based formula; (2) size of the family; (3) repercussion; (4) span; (5) efficiency bar; and (6) distinction between 'Higher Pay Centres' and 'Other Than Higher Pay Centres'.

(1) *Application of need-based formula:*

3.91. It has been argued on behalf of the Association that in the fixation of wage scales regard must be had to the norms of a need-based wage as settled in

the Fifteenth Tripartite Labour Conference (*vide* Ex. A-1). That Conference is a land-mark in the evolution of labour laws. For the first time in India an attempt was made in that Conference to express in quantitative terms the needs of a standard family with a view to fixation of Fair Wages. But the decisions of that Conference have only a persuasive value. The Central Government advised the Second Pay Commission that the resolutions of the Tripartite Conferences should not be regarded as decisions of that Government. Tribunals and wage fixing authorities have shown considerable reluctance in adopting the norms laid down therein as basis for wage fixation. The Second Pay Commission considered in great detail the question of applying these norms for determination of the wages of Central Government employees. It referred to the wide divergence of opinion on the question of the calorific and nutritional requirements and further observed that having regard to the conditions in India, the norms could not be accepted as feasible economically and financially (page 68, para. 16). That was also the view taken by the Desai Tribunal in its Awards relating to commercial banks and Reserve Bank. The decisions of the Fifteenth Tripartite Conference came in for consideration by the Supreme Court in the Reserve Bank appeal. On a consideration of all aspects of the question, the Court concluded: "it would, therefore, appear that the Reserve Bank is not the proper place to determine what the need-based minimum wage should be and for initiating it". (*vide* A.I.R. 1966 S.C. 305 at 319, 1965 II L.L.J. 175 at 194). The result then is that the decisions of the Tripartite Conference should be treated, like the living wage, as an ideal to be kept in view.

(2) *Size of the Family*:

3.92. There has been some discussion before me as what the size of the family should be taken to be in terms of consumption units for the purpose of fixing the wage scale. Industrial Tribunals have generally framed wage-structures with 2·25 consumption units at the start. [See the Award of the Sen Tribunal (page 32, para. 78), Caltex (India) Ltd., Calcutta *Vs.* Their workmen (1952 II L.L.J. 183), the decision of the Labour Appellate Tribunal against Sastry Award (para. 65), and Desai Award (Commercial Banks) para, 5·80)]. In the Reserve Bank reference the Desai Tribunal observed: "As regards the number of consumption units to be provided for, I consider in the present circumstances that a provision for 2·25 consumption units at the start of a young man's career in the Bank would constitute a fair provision when providing incremental scales of pay" (para. 3·17). On appeal, the Supreme Court dealing with this question observed: "The question thus is whether the National Tribunal is in error in accepting 2·25 consumption units instead of 3 as suggested in the resolution. In our judgment, the Tribunal was not wrong in accepting 2·25 consumption units. But it seems to us that if at the start the family is assumed to be 2·25, it is somewhat difficult to appreciate that the family would take 8 years to grow to 3 consumption units. We are aware that the Sastry Tribunal thought of 3 consumption units at the tenth year and the Sen Tribunal at the eighth year but we think these miss the realities of our national life. In our country it would not be wrong to assume that on an average 3 consumption units must be provided for by the end of five years' service. The consumption units in the first five years should be graduated. As things stand today, it is reasonable to think that 3 consumption units must be provided for by the end of five years' service, if not earlier" (A.I.R. 1966 S.C. 305 at 319, 1965 II L.L.J. 175 at 193).

3.93. It will be seen from the above that the question of consumption units is really one as to the size of the family of the workman—what its strength would be in the beginning and what at later stages. The Middle Class Survey Report, 1958-59 has not proceeded in terms of consumption units; but on the basis of the size of the family. It contains statements giving the average size of the family for different income groups and of the average of all the income groups. The question of consumption units therefore is not so very material when the wage-structure is based on the averages shown in the Middle Class Survey Report, 1958-59. This Report furnishes sufficient data for fixation of wages on the basis of the size of the family. Dealing with this aspect of the matter, the Supreme Court observed: "In determining family budgets so as to discover the workers' normal needs which the minimum wage regulations ought to satisfy, the size of the standard family is very necessary to fix. One method is to take simple statistical average of the family size and another is to take into account some other factors, such as, (i) the frequency of variations in family sizes in certain regions and employments; (ii) the number of wage-earners available at different stages; (iii) the increase or decrease in consumption at different stages in employment, that is, the wage-structure and its bearing on consumption" (A.I.R. 1966 S.C. 305 at 318, 319; 1965 II L.L.J. 175 at 193).

3.94. That is also the approach of the Association in its statement. Pleading on this question, under the captain 'Size of the Family', it refers to the decisions of

Tribunals and Reports on Family Living Surveys as to the size of the family and proceeds to state:

"Recently the Central Statistical Organisation of the Government of India undertook the survey of the middle class family living for the year 1958-59. In the said report, the investigation brought the result that average size of the middle class family from centre to centre varies between 3·2 to 6·4. The said report further reveals that the average middle class family for various cities for all income groups was found to be as follows:

Bombay	.	4·8
Delhi	..	5·0
Calcutta	..	5·0
Madras	..	4·6
Patna	..	4·5
Nagpur	..	5·0
Allahabad	..	4·9
Ahmedabad	..	5·1
Hyderabad	..	5·3

The Association, therefore, submits that for calculating a minimum wage, an average family consisting of minimum 4 consumption units should be taken into consideration and nothing less than that."

3.95. The question, therefore, ultimately is, what should be taken to be the size of the family under the Middle Class Survey Report? I should add that it is possible on the data given in the Survey Report to arrive at the expenditure per consumption unit for the several income groups. Such a statement has indeed been prepared *vide* Appendix 'C'). In terms of the figures shown in that statement, the basic scale fixed hereunder is undoubtedly favourable to the employees. In this view, Exs. B-65 to B-67 working out the expenditure per earner of a middle class family does not call for elaborate consideration.

(3) *Repercussions*:

3.96. One of the contention strongly pressed on behalf of the Bank is that in fixing the wage structure, I should have regard to what has been called its repercussions—(a) internal and (b) external.

(a) *Internal*:

3.97. It is argued that the present dispute relates only to the wage-structure of the employees of the Bank in Class III and some in Class II, that below them are the subordinate staff belonging to Class IV and that above them are the Supervisory Staff, Officers, Executive Directors, Deputy Governors and Governor and that the wage-scales should be so fixed for Class III staff as to be in harmony with those of the employees below and those above. It is particularly urged that the total emoluments admissible to Class III staff at several stages are somewhat higher than those admissible to the staff in the higher cadre and that therefore when the workmen staff are promoted to higher non-workmen cadre, they are being paid 5 per cent. of their basic pay and sometimes even a personal allowance for making up the deficiency. The wage-scale of the higher grade, of Officers and others, it is said, are "severaly controlled" by the Government and that in fixing the scale of Class III employees "it is absolutely essential that some relativity is maintained" (*vide* Ex. B-37).

3.98. This no doubt is a factor to be taken into account. When there are several categories of employees in an establishment, the wage-structure of any one of them must have an impact on those of the others. To this extent, it would be proper to have regard to the wage-scale of the subordinate staff, as also that of the Supervisory and other higher grade Officers in the Bank. But this consideration cannot over-ride the principles on which Fair Wages have to be fixed—and that is what I have got to do. As pointed out by the Second Pay Commission different considerations, economic and social, must make for different levels of employees (*vide* page 30, para. 30). The Subordinate Staff belong to the working class and the basis on which its wage-structure is fixed must be different from that which is applicable to the middle classes. Likewise, there are so many different levels among the middle class that the wage-packet in the lower levels must differ from those in the higher levels. As each group has its own distinct wage-structure, it may not be useful in the fixation of wage-structure of one group, to compare it with that of another. I am, therefore, of

opinion that while a comparison of the different wage-structures at different levels may not be irrelevant, ultimately the question of what is Fair Wage for a particular class must be decided on an assessment of factors bearing on that class.

(b) *External*:

3.99. Then there is the contention relating to what has been called external repercussions. The argument of Shri Phadke is that the employees of the Central Government State Governments, local authorities like the Municipal Corporations, Life Insurance Corporation of India and the like would look to the wage-scale to be fixed in these proceedings for comparison and that, therefore, any substantial increase in the emoluments in the Reserve Bank would lead to repercussion among employees of Government and of public bodies. This, in substance, is only the question of comparable industries in another from. I have already held that the clerical staff whether it is in Government service on in banks or in commercial concerns have certain features in common and their pay scales are accordingly comparable. But I have also held that the banking industry is a class by itself having distinctive features and that, therefore, it is the commercial banks that should primarily be taken up for comparison. In this view a question of repercussion either in Government service or in commercial concerns would properly be not a legitimate factor to be taken into account. I may, in this connection, refer to the decision of the Supreme Court in the Hindustan Antibiotics Ltd. *Vs.* Their workman (A.I.R. 1967 S.C. 948 at 959, 1967 I L.L.J. 114 at 126), in which it was held that the wage-scale prescribed in one public sector undertaking would furnish no basis for comparison with a different kind of undertaking, though that is in the public sector and that in consequence an argument based on repercussion would be untenable. A *fortiori* the same considerations must be applicable when the question raised is one of repercussion in Government or public bodies in relation to the pay scales prescribed in the banking industry.

(4) *Span*:

3.100. The question of span has been raised mainly with reference to the clerical scale under which the maximum is reached in the 23rd year. The demand of the unions is that the span should be reduced to 20 years. In support of this demand it is argued that a short span helps the workman to meet his increasing responsibilities and takes him nearer the living wage. It is said that in the State Bank of India and the Bank of India, the span is only 20 years and that it should be the same in the Reserve Bank. As against this, it is urged by the Bank, that if the span is a short one the employee would reach the maximum early in his career and that would result in his stagnation and impairment of efficiency on account of the cessation of incremental incentive. It is also pointed out that the span prescribed for the clerical staff in the commercial banks is 25 years and that the span in the Bank compares favourably with that generally in the commercial banks. It may be mentioned that the fixation of a span of 25 years in banks goes back to the Award of Justice Divatia and this was adopted by the Sen Tribunal, Sastry Tribunal, Desai Tribunal and it is this that finds a place in the Bipartite Settlement. This itself would be a sufficient ground for maintaining the existing span of 23 years. But there is an even more substantial ground why the span should not be reduced. While under the Desai Award (RBI) the pay range of the clerical staff was Rs. 155—420, the corresponding scale under my Award is Rs. 192—540. This is tantamount to a reduction of the span so far as the old range is concerned. The clerical scale has been extended to other categories of workmen and appropriate spans prescribed.

(5) *Efficiency Bar*:

3.101. There has been some discussion before me as to whether there is any need for an efficiency bar, and if there is, how many should be provided. The existing position in the Bank is that among the employees in Class II as also in the case of Compounder Grade II, Air-Conditioning Plant and Electrical Supervisor and Tallers belonging to Class III, there is no efficiency bar at all; that one efficiency bar is provided in some categories of employees but that in the case of a large majority of them there are two efficiency bars. The demand of the unions is that efficiency bars should be removed altogether and that even if they are retained, it should not be more than one. In support of this, the Association relies on the views expressed by the Working Journalists Wage Committee in paragraph 97 at page 32 of its Report. This question has been the subject matter of consideration by the two Pay Commissions and by Industrial Tribunals. Justice Divatia in the Bombay Banks Award observed: "If there is no such bar

a clerk who is found to be inefficient after his confirmation will have no incentive for improvement throughout his whole service and the employer may have no alternative except to discharge or dismiss him". Before the First Pay Commission a contention was put forward that there ought to be no efficiency bar. In rejecting it the Commission observed: "We are not prepared to ignore the fact that right down from the time of the Islington Commission all responsible authorities have regarded the principle of the efficiency bar as an indispensable part of the time-scale system if it is to work satisfactorily" (page 39, para. 60). This contention was again repeated before the Sen Tribunal and in support of it reference was made to the practice in the United Kingdom and to an Award of the Court of Arbitration in New Zealand. In rejecting this demand, that Tribunal observed: "We have, however, to consider the circumstances generally prevailing in this country. Efficiency bars exist in the Government services and have been inserted in nearly all awards relating to scales of pay made by Industrial Courts and Tribunals" (page 47, para. 112). The Tribunal then decided that it would be sufficient to impose one efficiency bar between the 17th and the 18th year of service in the case of all employees. The Sastry Tribunal agreed with this view and the Labour Appellate Tribunal confirmed it prescribing, however, certain conditions on the imposition of the bar. In the commercial banks reference, the Desai Tribunal rejecting a contention that there ought to be two efficiency bars, provided for one bar at the 20th year of service. The same Tribunal, however, while dealing with this question in the case of Reserve Bank reference was faced with the fact that in many cases there were two bars and decided that both should be retained and that is the present position. The Second Pay Commission again emphasised the need for efficiency bar. It observed that recognition of marked ability and industry of an employee by promotion can be available only to a proportion of employees and that, "as among the rest, it is ordinarily through efficiency bars that a practical discrimination between satisfactory and unsatisfactory workers can be made. We have, therefore, usually provided an efficiency bar somewhere about the 10th year in scales which are to run for more than 15 years or so and a second efficiency bar at a later stage in scales which are to run for 20 years or longer" (page 104, para. 11).

3.102. In my opinion, it is too late in the day to contend that there is no need for an efficiency bar. The only question is as to how many there should be and when they should be imposed. Proceeding somewhat on the lines of the Second Pay Commission, I am providing for two efficiency bars in scales having a span of 17 years and more and one bar in the scales where the span is less. In the case of clerical staff, in view of my decision that on the completion of nine years they should be entitled to a special pay of Rs. 20 per month, there will be one efficiency bar at that stage and a second efficiency bar, at the end of the 20th year. This will apply to all the categories falling in Group I for whom the clerical scale has been made applicable. All of them will have to cross the first efficiency bar before they are entitled to the special pay, and cross the second efficiency bar at the end of of the 20th year. This, of course, will not apply to what is granted as Special Pay from the very start. As regards Groups II and VI, whose span is 18 years, the efficiency bars will be placed on the completion of the 7th and the 13th years. In Group III, where the span is 17 years, the efficiency bars will be on the completion of the 7th and the 12th years. In all the other Groups as the span is less than 15 years, it will be sufficient to impose one bar at the end of the 6th year.

3.103. Finally, it has been argued by Shri Sule, that if an efficiency bar is to be imposed, suitable safeguards should be provided for protecting the interests of the employee. I agree that that should be done. I, therefore, direct that before an efficiency bar is applied, (1) notice should be given to the employee to show cause why the bar should not be imposed on him, and that should state the grounds on which the bar is proposed to be imposed; (2) the employee should be heard on the show cause notice before in order is passed against him; and (3) the order should be reviewed at the end of each year, and rescinded, if the authority is satisfied, that there has been sufficient improvement in the work of the employee concerned. Such an order of rescission, however, shall have no retrospective operation with respect to increment or seniority.

(6) *Distinction between "Higher Pay Centres" and "Other Than Higher Pay Centres":*

3.104. In fixing scales of pay, the Desai Tribunal made a distinction between "Higher Pay Centres" and "Other than Higher Pay Centres", and prescribed different scales for them. There was no such distinction before the Desai Award. The scale of pay for the several categories of workmen was the same in all the centres but in some of the centres an allowance called "Local Pay" (which was

treated as 'pay' for all purposes) was also granted. This was intended to compensate for the higher cost of living in those centres. The said "Local Pay" was originally confined to Bombay and Calcutta but later on Delhi, Ahmedabad Kanpur and Madras also came to be included in this category. Before the Desai Tribunal a contention was urged that "Local Pay" should be granted to all centres, on a varying percentage basis. The Tribunal held that as the reason for the grant of this pay was the higher cost of living in certain places it should be limited to those places and not extended to all the places and that as it had all the incidence of 'pay', it should properly be merged in the pay scale. In this view that Tribunal divided the centres into two categories *viz.*, "Higher Pay Centres" and "Other Than Higher Pay Centres", abolished "Local Pay" altogether, and merged it in the basic pay in the former centres. That is how the distinction based on centres came to be made. In these proceedings the unions have pressed for the abolition of this distinction on the ground that the reason for the distinction viz. towns other than the Higher Pay Centres are less costly does not now hold good, and that it violates Article 39(d) of the Constitution which lays down that there should be equal pay for equal work. In its written statement the Bank has maintained that the distinction made by the Desai Tribunal is well-founded and should not be disturbed. At the hearing, however, it has conceded that according to the Middle Class Survey, 1958-59, the per family expenditures in the so-called "Other Than Higher Pay Centres" has also gone up, that in some cases it is even more than that in the "Higher Pay" centres, and that, therefore, the distinction made in the Desai Award (RBI) might be abolished and one uniform pay scale prescribed for all the centres. Thus both the parties are now agreed on the abrogation of the distinction between "Higher Pay Centres" and "Other Than Higher Pay Centres", though for different reasons, and accordingly, I direct that the distinction between the two classes of centres do stand abolished and the scale of basic wages be the same for all the centres.

Groupings:

3.105. I shall now address myself to the question of fixation of scales of pay with 1960 as the base-year. There are at present more than 40 categories among the employees concerned in this dispute and there are as many as 31 scales of pay including those prescribed for centres "Other Than Higher Pay Centres". On my finding that the distinction between the "Higher Pay Centres" and "Other Than Higher Pay Centres" should be abolished, there would still be about 19 scales of pay under the Desai Award (RBI). All the parties are agreed that it will be more convenient and proper to make a substantial reduction in the number of pay scales, but they are not in agreement as to how that should be done. The Association and the Organisation have in their statements put forward their respective schemes for grouping the categories. The Bank has filed Ex. B-46 suggesting its classifications. It is necessary, therefore, to determine the question of groupings first before settling the scales of pay for the several categories.

3.106. I shall first consider the contention of the Organisation that there should be gradation based on job evaluation. Shri Gokhale has argued that the job evaluation of workmen in these proceedings should be by grade-description method which is a non-quantitative method and has filed Exs. O-13, O-18 and O-19 showing what should be the gradation on the basis of this method. In elucidation of his position he has relied on several passages in a standard treatise of J. L. Otis and Richard H. Leukart on the subject, "Job Evaluation, a basis for Sound Wage administration". It appears that the job evaluation systems fall broadly speaking into two categories, non-quantitative and quantitative. In the former again there are four major systems, ranking, grade-description, point-rating and factor-comparison. "Ranking and grade-description represent systems which are relatively simple and easy to explain. The point-rating and factor-comparison methods are more complex" (page 65 *ibid*). It is the contention of Shri Gokhale that the non-quantitative grade-description method is best suited for a classification of the employees in the Reserve Bank. Shri Phadke strongly opposes this. He argues that such job-evaluation is usually made by a Joint Committee consisting of the employer and the unions and that there is no place for it, in these proceedings. My attention has further been drawn to the following observations in the said treatise of J. L. Otis and Leukart: "Job Analysis and Job Evaluation do not replace judgement in the administration of a pay-structure. They merely provide facts—in so far as facts can be obtained through observation—on which management and employees may base their decisions" (page 9). Therefore, it is said, the subjective factor also has a place in job-evaluation. It is argued that this is not a new undertaking in which wage-scales have to be fixed for the first time, on an assessment of Job values; that now, for more than thirty years, there have been in existence several categories of employees with distinct kinds of work and different scales of pay and that that must be taken into account. This is undoubtedly a factor very material to a

decision on the number and grouping of scales. On this aspect the Second Pay Commission observed: "We do not ourselves think that it is possible to determine the optimum number of scales on *a priori* reasoning; the number of scales must be determined on practical, and often complex considerations. We are in any case not writing on a clean slate, and it is clearly impracticable to recommended a theoretically ideal number of scales—even assuming that there is such an ideal number—with the spread of each scale and its relationship to the adjoining scales, and the size and frequently of increment etc., worked out according to some set formulae" (page 102-103, para. 7). By way of reply, the Organisation has filed Ex. O-69 wherein it is stated: "It is clear that in the present circumstances the Bank's attitude results in postponing the introduction of a scientific job evaluation programme, for any imposition by way of an award of such a programme should better follow a specific term of reference to that effect." In view of this it is unnecessary to enter into a more detailed consideration of this subject.

3.107. I have, however, kept in view the principles laid down by the Second Pay Commission in determining the number of scales to be prescribed in these proceedings. These are—(1) that sound and equitable internal relativities should be the determining factor in the fixation of the intermediate salaries; (2) that the existing relativities should not be changed unless there is clear justification therefor; and (3) that "where there is a recognizable difference in qualifications for recruitment or level of duties or responsibilities, the rate of remuneration must be higher." Consistently with these principles, where the differences among the scales were marginal, I have straightened them and grouped them under one category; that is, I have 'broad-banded' a number of scales. In the result the number of groups fixed by me comes to nine in all.

3.108. It will be convenient to set out the existing Scales of Pay and Special Pay as settled by the Desai Tribunal, and then consider how they should be grouped. They are set out in the Table No. 1 below:

TABLE NO. I

I. Scales of pay at "Higher Pay Centres"

Class II Staff

1. *Personal Assistant to the Governor.*

Rs. 425—33—755—35—790 . . . . (12 years)
 1 10 1

2. *Personal Assistant*

Rs. 435—27—651—29—680 . . . . (10 Years)
 1 8 1

Class III Staff

1. *Clerk Grade II, Clerk Grade I, Coin-Note Examiner Grade II, Coin-Note Examiner Grade I, Field Investigator, Punch Operator, Assistant Caretaker, Auto Verifier Operator*, Hostel Supevisor**

Rs. 155—5—165—8—181—10—211—EB—10—221—
 1 2 2 3 1

12—305—15—365—EB—15—380—20—420 . . . . 23 Year(s)
 7 4 1 2

2. *Compounder Grade II*

Rs. 140—5—190—6—220 . . . . (16 Years)
 1 10 5

3. *Compunder Grade I*

Rs. 155—5—165—8—181—10—211—EB—10—221—12—305 —15—350 (19 Years)
 1 2 2 3 1 7 3

4. *Telephone Operotor Grade II*

Rs. 155—5—165—8—181—10—211—EB—10—221—
1 2 2 3 1
12—305—15—350—EB—20—390 . . . . . (21 Years)
7 3 2

5. *Electrician Grade II, Assistant Air Conditioning Plant Operator, Electrician-cum-Caretaker**

Rs. 165—8—181—10—211—EB—10—221—12—305—15—350 . . (17 Years)
1 2 3 1 7 3

6. *Typist, Telex Operator, Typewriter Mechanic*

Rs. 165—8—181—10—211—EB—10—221—12—
1 2 3 1 4
269—15—299—EB—16—395—17—412—18—430 . . . (21 Years)
2 6 1 1

7. *Cmoptometer Operator, Adrema Machine Operator*

Rs. 185—8—193—10—233—EB—12—305—15—350—
1 1 4 6 3
EB—15—380—20—420 . . . . (19 Years)
2 2

8. *Tabulator Operator, Sorter Operator, Fund Machine Operator**

Rs. 185—8—193—10—233—EB—12—329—13—
1 1 4 8 1
342—15—417—18—435 . . . . (21 Years)
5 1

9. *Junior Draftsman*

Rs. 185—12—281—15—296—EB—15—356—18—410—20—430 . (18 Years)
1 8 1 4 3 1

10. *Translator*

Rs. 185—8—193—10—233—EB—12—269—15—299—
1 1 4 3 2
EB—16—395—17—412—18—430 . . . . . . (19 Years)
6 1 1

11. *Telephone Operator Grade I, Electrician Grade I*

Rs. 185—12—269—EB—20—409—21—430 . . . . . . (16 Years)
1 7 7 1

12. *Stenographer Grade II*

Rs. 185—12—269—EB—20—429—21—450 . . . . . . (17 Years)
1 7 8 1

13. *Caretaker Grade II*

Rs. 221—12—269—EB—20—409—21—430 . . . . . . (13 Years)
1 4 7 1

14. *Air Conditioning Plant and Electrical Supervisor*

Rs. 255—15—270—16—430—20—450 . . . . . . (13 Years)
1 1 10 1

15. *Supervisor, Machine Section, Senior Draftsman, Banking/Statistical/Central Office/Language Assistant/Economic Assistant, Field Inspector*

Rs. 255—15—270—16—398—21—419—EB—21—482—22—570 . (18 Years)
1 1 8 1 3 4

16. *Teller*

Rs. 285—16—461—19—480 . . . . (13 Years)
1 11 1

17. *Stenographer Grade I*

Rs. 285—18—303—20—443—EB—20—463—22—485 . . . (11 Years)
1 1 7 1 1

II. *Scales of pay at Centres "Other Than Higher Pay Centres"*

Class III Staff

1. *Clerk Grade II, Clerk Grade I, Cion-Note Examiner Grade II, Coin-Note Examiner Grade I, Mechanic-cum-Operator*

Rs. 145—5—165—8—181—10—191—EB—10—
1 4 2 1 3
221—12—305—15—320—EB—15—380 . . . . (23 Years)
7 1 4

2. *Compounder Grade II*

Rs. 130—5—205 . . . . (16 Years)
1 15

3. *Telephone Operator Grade II*

Rs. 145—5—165—8—181—10—191—EB—10
1 4 2 1 3
221—12—305—15—320—EB—15—350 . . . . (21 Years
7 1 2

4. *Assistant Air Conditioning Plant Operator*

Rs. 155—5—165—8—181—10—191—EB
1 2 2 1
10—221—12—305—15—320 . . . . (17 Years)
3 7 1

5. *Typist*

Rs. 155—5—165—8—191—10—191—EB
1 2 2 1
10—221—12—269—EB—15—299—16—395
3 4 2 6 . . . . (21 Years)

6. *Comptometer Operator*

Rs. 175—8—215—EB—8—223—10—233—12—305
1 5 1 1 6
15—320—EB—15—380 . . . . (19 Years)
1 4

7. *Stenographer Grade II*

Rs. 175—10—215—12—215—EB—12—275—20—415 . . . . (17 Years)
1 4 3 2 7

8. *Caretaker Grade II*

Rs. 200—12—248—EB—12—260—20—400 . . . . . (13 Years)
1 4 1 7

9. *Air Conditioning Plant & Electrical Supervisor*

Rs. 230—10—240—15—270—16—398—17—415 . . . . . (13 Years)
1 1 2 8 1

10. *Economic Assistant*

Rs. 230—10—240—15—270—16—382—EB—16—398—
1 1 2 7 1
21—503—22—525 . . . . (18 Years)
5 1

11. *Teller*

Rs. 255—15—285—16—445 . . . . (13 Years)
1 2 10

12. *Stenographer Grade I*

Rs. 255—18—309—20—409—EB—20—429—21—450 . . . . (11 Years)
1 3 5 1 1

III. Special Pay

Class III Staff

	Category	*Amount*
1.	Clerk Grade I, Coin Note Examiner Gr. 1	Rs. 12 per month
2.	Punch Operator Auto Verifier Operator*	Rs. 15 per month
3.	Telex Operator*	Rs. 10 per month
4.	Tabulator Operator, Sorter Operator, Fund Machine Operator*	Rs. 15 per month
5.	Electrician Grade I	Rs. 50 per month@
6.	Senior Compounder at Bombay	Rs. 25 per month
7.	Mechanic-cum-Operator	Rs. 18 per month

Ad-hoc-Allowances

Hostel Supervisor*	Rs. 50 per month

*Post Desai Award Category.

@Admissible subsequent to Desai Award.

3.109. Of these, the clerical staff is the largest single category and that will be taken up for consideration first. Their pay-packet, as it existed in 1960 prior to the Desai Award (RBI), in local pay centres is set out in Table No. 2 below:

TABLE NO. 2.

Pre-Desai Award Scale

Year of Service	Pay	Special pay	Local pay	Dearness Allowance	Total (2 to 5)
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	Rs.
1	90·00	..	10	60	160·00
2	95·00	..	10	60	165·00
3	100·00	..	10	60	170·00
4	108·00	..	11	60	179·00
5	116·00	..	12	60	188·00
6	124·00	..	13	60	197·00
7	132·00	..	14	60	206·00
8	140·00	..	14	65	219·00
9	150·00	..	15	65	230·00
10	160·00	10	17	65	252·00
11	170·00	10	18	65	263·00
12	180·00	10	19	75	284·00
13	190·00	10	20	75	295·00
14	200·00	10	21	75	306·00
15	210·00	10	22	75	317·00
16	220·00	10	23	85	338·00
17	230·00	10	24	85	349·00
18	240·00	10	25	85	360·00
19	250·00	10	26	85	371·00
20	262·50	10	28	105	405·50
21	275·00	10	29	105	419·00
22	287·50	10	30	105	432·50
23	300·00	10	31	105	446·00

3.110. If the above statement were not open to criticism, then the scale of basic pay for 1960 based thereon would be Rs. 160-446. But then that scale was based on an agreement of the parties in the year 1954 and it was the contention of the employees before the Desai Tribunal that there had been a material change in the circumstances since then, and that the scale fixed in the agreement was lower than what would be proper and reasonable. If that were established, that would be a good ground for modifying the scale. The Desai Tribunal was satisfied that there was such a change and the relief which it considered appropriate under the circumstances was to take the then existing basic pay and dearness allowance, convert them to the 1949 base and then add to the figure so obtained, ten per cent. It is on this basis that the pay structure settled by him and set out above rests. It would therefore be proper to fix the basic scale, not on the basis of the scale fixed by agreement in 1954, but on the basis of that fixed by the Desai Tribunal. It is true that the Award was given by that Tribunal in September 1962 and the pay scale took effect from 1st January, 1962 and we are concerned with the year 1960. It is not suggested that there is any substantial difference between the cost of living and the wage-packet in 1960 and those in 1962 and therefore the Desai Award (RBI) can be taken as the basis for fixation of wages in 1960. If anything the pay level was higher than that in 1960. Basing itself on the pay scale settled in the Desai Award (RBI), the Bank has filed Ex. B-76 stating what according to it should be regarded as the basic wages for the year 1960. It has first taken the basic pay scale under the Desai Award, and then added to it the amount of dearness allowance payable under that Award and treated the consolidated amount as the basic pay for the year 1960. Thus, to take an example, the initial pay is Rs. 155. In 1960, the Index Number shows a rise of 24 points in relation to the 1949 base of 100. Under the Desai Award (RBI) the dearness allowance granted is 75 per cent of the actual rise. That works out to 18 per cent. Thus, the dearness allowance payable for Rs. 155 is

about Rs. 27. Therefore, the basic pay for the year 1960 would be Rs. 155 plus Rs. 27 is equal to Rs. 182 or Rs. 183. The entire scale is reconstituted in this wise. The scheme as put forward by the Bank is set out in Table No. 3 below:

TABLE NO. 3.

Clerks

Year of Service	Existing Pay (Higher Pay Centres)	D.A. @ 18% of pay (75% of average for 1960 under Working Class Index)	Total (2+3)	Revised scale under Non-Manual Index with base 1960=100
1	2	3	4	5
	Rs.	Rs.	Rs.	Rs.
1 . . .	155	27·90	182·90	183·00
2 . . .	160	28·80	188·80	189·00
3 . . .	165	29·70	194·70	195·00
4 . . .	173	31.14	204·14	205·00
5 . . .	181	32·58	213·58	215·00
6 . . .	191	34·38	225·38	225·00
7 . . .	201	36·18	237·18	237·00
8 . . .	211	37·98	248·98	249·00
9 . . .	221	39·78	260·78	261·00
10 . . .	233	41·94	274·94	275·00
11 . . .	245	44·10	289·10	289·00
12 . . .	257	46·26	303·26	303·00
13 . . .	269	48·42	317·42	317·00
14 . . .	281	50·58	331.58	332·00
15 . . .	293	52·74	345·74	347·00
16 . . .	305	54·90	359·90	362·00
17 . . .	320	57·60	377·60	379·00
18 . . .	335	60·30	395·30	396·00
19 . . .	350	63·00	413·00	413·00
20 . . .	365	65·70	430·70	431·00
21 . . .	380	68·40	448·40	449·00
22 . . .	400	72·00	472·00	473·00
23 . . .	420	75·60	495·60	497·00
Special Pay for Clerk Grade I .	12	2·16	14·16	15·00

3.111. I shall now deal with the objections put forward by the Organisation against this statement. Before considering them on the merits, it should be noted that the Organisation has not taken exception to the mode adopted by the Bank for fixing the basic scale for 1960 in terms of the scales prescribed under the Desai Award (RBI). Nor has it put forward any positive scheme as an alternative. It may, therefore, be taken that according to the Organisation the scheme of the Bank can be adopted as a basis subject to such modifications as might be required to be made on the objections preferred by it.

3.112. Dealing now with the objections, firstly, it is contended that there should be full neutralisation, and not merely 75 per cent. The reason given for this is that the Middle Class Index Number is, point for point, weightier than a Working Class Index Number and that accordingly even though full neutralisation is not given when the Working Class Index is in operation, when there is a shift from that Index to the Middle Class Index, there ought to be full neutralisation to make up for the difference in weightage. I am unable to see much force in this argument. If, as is rightly contended, the two indices move in different spheres, it is difficult to see how there can be any effective comparison. Moreover, in the year 1960 there was only one all-India index, the Working Class Index, and no materials have been placed before me on which it would be possible to come to any clear conclusion on this question.

3.113. The second objection against the statement of the Bank is that it has not taken into account the temporary ad-hoc dearness allowance of 6 per cent which has been given to the employees concerned from 1st August, 1964. The background for the grant of this allowance is this: There was a complaint by the workmen that there were errors in the Working Class Index Numbers and Expert Committees were appointed in several States for investigation of this charge. One of them, the Lakdawala Committee, appointed by the Maharashtra Government, found that there were errors and recommended that 29 points be added to the published index figures in the consumer price index numbers for the working class in the city of Bombay. Similar findings were given by other Expert Committees appointed in other States also. Consequent on this there was an agitation for revision of the wage-structure and eventually an agreement was reached in 1964 under which the Class IV employees were given an ad-hoc dearness allowance of 8 per cent on their pay, that being the full rate of neutralisation, and 6 per cent was given to middle class employees on the basis of 75 per cent neutralisation. Now, the contention is that as the report of the Lakdawala Committee had reference to the year 1960, as the base-year, the 6 per cent dearness allowance, which was agreed to be given on the basis of that Report should be included in the pay scales of the basic year for 1960. The Bank does not admit that that was the basis of the agreement for granting the temporary ad-hoc dearness allowance. But it appears to me that, having regard to the Report of the Lakdawala Committee, there cannot be much of a doubt that there was an error in the Working Class Index Numbers, though it may not be possible or proper to accept the percentage of error given in the Report of that Committee as correctly reflecting the error in the All-India Working Class Index, and that it would therefore be proper in linking the pay to the Middle Class Index, to make a reasonable allowance for the errors in the Working Class Index of that year.

3.114. The third contention of the Organisation is that to the scale of pay determined as aforesaid, further additions should be made on an ad-hoc basis to make up for the shift in the index. But it is conceded that there are no data available for this purpose, and I do not see any ground for accepting this claim. In the result the scale proposed in Ex. B-76, should be raised so as to make up for the error in the Index, and justice will be done by adding a sum of about Rs. 10 at the start and making suitable modifications in the further steps of the ladder. As revised by me, the clerical scale with 1960 as the base-year, is Rs. 192—540.

3.115. There are two more questions that have to be noticed with reference to the clerical staff. One is, whether there should be two grades, in the cadre of the clerical staff. At present there is only one scale; but when a Clerk Grade II is promoted to a Grade I post, he is paid a Special Pay of Rs. 12 per mensem. The Organisation and the Federation have made a demand that there should be a separate scale of pay for Grade I Clerks instead of a Special Pay. Prior to 1954 there were two scales of pay for clerical staff. By an agreement entered into between the Bank and the Association in that year, they were merged into one. Before the Desai Tribunal the contention was put forward that there should be a reversion to the state of affairs prior to 1954 agreement and that there should be two scales. But that Tribunal held that there could be no question of going back and continued the scheme of one scale and a special pay for Clerks Grade I. It appears to me that as the state of affairs which came into existence as a result of the agreement of the parties has been in existence for now more than twelve years, it would lead to considerable embarrassment, if that is to be changed. It is the Association that represents the majority of workmen and it has made no demand for re-introduction of two scales for the clerical staff. It should also be noted that the duties of the Clerks do not differ very much in their character (vide Ex. B-39), and that is a ground, as was observed by the Second Pay Commission, to maintain one scale with a provision for special pay rather than to frame two different scales (vide page 366, para. 7). I am, therefore, of opinion that there are no grounds for upsetting the present scheme and introducing two grades.

3.116. Then there is the question as to what the Special Pay for Grade I Clerk should be. Under the Desai Award (RBI) the Special Pay for Grade I Clerks has been fixed at Rs. 12 per mensem. The demand of the Association is that that should be raised to Rs. 50 per mensem. The Bank has suggested Rs. 15 as the proper figure to fix under the new scale. I am of opinion that Rs. 20 would be a proper allowance as Special Pay and so I fix. I also decide that a Clerk shall be entitled, on the completion of nine years of service, to the Special Pay aforesaid, unless an efficiency bar has been imposed on him. This provision does not stand in the way of the Bank granting this Special Pay even before the completion of nine years.

Telegram Section, Bombay:

3.117. The practice in the Bank is that employees in the clerical cadre are posted to Telegram Section and in addition to their basic pay and other allowances, they are paid a special pay of Rs. 40/- per mensem. Two claims have been made on their behalf—overtime allowance and special pay. At present the limitation as to the number of office hours of work of other employees does not apply to them, as the very nature of the work demands that the section should be kept open right through. The practice is that some of the employees are posted on duty during day time and others during night time. As compensation for the extra hours of work, for which they have got to be on duty, they are paid a special pay of Rs. 40/- per month. One demand is that they should be paid not special pay but overtime allowance. This point is dealt with by me under the item, "Hours of work, and overtime". Therein I have come to the conclusion that the present practice of paying a fixed allowance should be maintained. Therefore, there will be no grant of overtime allowance to them. The second demand is with regard to the quantum of Special Pay. The claim that is made is that this amount should be raised to Rs. 75/-. I am of opinion that a Special Pay of Rs. 50/- would meet the ends of justice.

Coint/Note Examiners:

3.118. There are now two grades of Coin/Note Examiners. Their scales of pay are precisely those of the clerical staff. Coin/Note Examiners Grade I get a Special Pay of Rs. 12/- per month. There is no demand either from the unions or from the Bank for a change in their present status. The only complaint of the unions is that the promotional avenues open to them are inadequate and that there should be a suitable provision to compensate for this. I think that the demands of justice will be met by a provision that Coin/Note Examiners should also be entitled like the clerical staff to a Special Pay of Rs. 20/- per month on their completing nine years of service. Here also this provision does not stand in the way of the Bank granting this Special Pay even before the completion of nine years.

Typists:

3.119. At present the scale of Typists in the 'Higher Pay Centres' is Rs. 165—8—181—10—211—EB—10—221—12—269—15—299—EB—16—395—17—412—18—430 (span 21 years). In the process of reducing the number of categories, I am fixing the clerical scale for them also. On this, two points arise for decision. One is that the existing scale is higher than that of the clerical staff and that a suitable provision by way of marginal adjustment must be made. I direct that to make up for this difference, a Special Pay of Rs. 15/- per mensem be allowed to them from the very start. The second is that for purposes of seniority the Typists are treated as distinct and separate from the clerical staff. Now, it is said that this works great hardship on the Typists, especially, as the promotional avenues now open to them are not adequate and the demand is that there should be common seniority. Now the Bank contends that this is not one of the questions referred to me and I have no jurisdiction to decide it (see para. 49 of the Bank's written statement). On the merits, the Bank contends that before a person is appointed to a clerical cadre he is required to undergo a written examination, but that no such test is prescribed for a Typist. As against this, it is argued on behalf of the Association that there is no substantial difference between the qualifications of a Clerk and a Typist and reliance is also placed on the following observations of the Sastry Tribunal: "We are not providing for a special allowance for Typists. They should form part of regular clerical grade. A Typist-Clerk should not for ever be a Typist. His knowledge of typing will be an additional qualification for recruitment and promotion" [page 50, para. 164(b)].

3.120. It may be mentioned that in the Central Government and in commercial banks Typists are not borne as a separate cadre. In Railway service, however, the Typists were treated as a separate category on the Lower Division scale. But the Second Pay Commission did not approve of this and recommended that in the Railways also Typists may not be retained as a separate cadre but should be merged in the general clerical cadre", (pages 131, 132, para. 22). Thus, there is a strong body of opinion for merging the Typists in the clerical cadre for all purposes.

3.121. But the question still remains whether in adopting one scale both for the clerical staff and Typists, we should also recognise common seniority for all of them. The Bank contends that while it is agreeable to one scale being prescribed for clerical staff, Typists and Coin/Note Examiners, they should be treated

as distinct categories for purposes of seniority. Under the rules the qualifications for recruitment as a Clerk are that the candidate should have passed in first class in the Matriculation Examination with 50 per cent marks in English and Mathematics. It should be added that the number of graduates recruited to this category is fairly large. Their work is clerical and becomes more and more technical and specialised at the later stages. So far as Typists are concerned, it is sufficient if the candidate passes the Matriculation Examination with 45 per cent marks in English. There is a special provision that graduates are not eligible to be recruited as Typists. The work of the employees in this category is typing. The qualifications for admission as a Coin/Note Examiner are that he should have passed the Matriculation Examination with 40% marks in English and Mathematics and not less than 40 per cent marks in the aggregate. Here also there is a provision that graduates are not eligible for appointment as Coin/Note Examiners. The work of the Coin/Note Examiners consists of routine examination and counting of notes and coins. It is easy to see that if common seniority is to be adopted for all these three categories, there would be considerable difficulty when an employee in one of the above categories is transferred to another. It may also be mentioned that under the existing rules a Typist or a Coin/Note Examiner may apply for transfer to the clerical side if he becomes a graduate or passes both the Parts of the Indian Institute of Bankers' Examination. If he is selected, for purpose of seniority, his service will date from the date he acquired the said qualification or the date on which he entered the service as a Typist or a Coin/Note Examiner, whichever is later. In my opinion this rule sufficiently safeguards the interests of both the Typists and Coin/Note Examiners. That being my decision on the merits, it is unnecessary to express any opinion on the question of jurisdiction.

3.122. Then there is a demand that a new post of Head-Typist should be created as the promotional avenues open to the Typists are very limited. It is no doubt true that the Typists can aspire to become Stenographers and Personal Assistants but this is a very limited field. I think therefore that justice will be done by providing that on completion of nine years of service and crossing the first efficiency bar they should be paid a special pay of Rs. 20 per mensem and this special pay will be in addition to the special pay of Rs. 15 per mensem which is provided under this Award to all the Typists from the very start.

3.123. Lastly, a claim is made by the Organisation that a special pay of Rs. 40 per month should be given to Hindi-Typist. The Bank contends that there is no jurisdiction for making any distinction between an English Typist and Hindi-Typist in the matter of emoluments. I agree with the Bank.

Telex Operator:

3.124. The Telex Operator is a post-Desai Award category. His duties are akin to those of a Typist and he is now given the same pay as a Typist with a special pay of Rs. 10 per month. His position will be assimilated to that of a Typist, that is, his scale of pay will be that of the clerical staff and he will be given a special pay of Rs. 25 per mensem from the start and after the completion of nine years of service, when he crosses the first efficiency bar, he will be given Rs. 45 per mensem, in all.

Machine Operators:

3.125. It will be convenient to deal with several categories of machine operators together. The category of Mechanic-*cum*-Operator exists only in "Other Than Higher Pay Centres". I have abolished the distinction based on the centres and I am prescribing for him pay on the clerical scale. He is now given a special pay of Rs. 18 per mensem and that will be raised to Rs. 25 per mensem. The scale of pay of the Punch Operator under the Desai Award (RBI) is the clerical scale of Rs. 155—420 with a Special Pay of Rs. 15 per mensem. He will now be getting under the revised clerical scale Rs. 192—540 and the special pay of Rs. 15 per mensem is raised to Rs. 25 per mensem. The post of Auto-Verifier Operator carries now, the same scale of emoluments as that of Punch Operator. That will continue to be so. Under the Desai Award (RBI) the scale of Comptometer Operators and Adrema Machine Operators is Rs. 185—420. They are now fixed in the clerical scale of Rs. 192—540. They will also be given a special pay of Rs. 30 per mensem. The scale of pay of the Sorter Operator and the Tabulator Operator under the Desai Award (RBI) is Rs. 185—435 with a special pay of Rs. 15 per mensem. They will now be fitted in the clerical scale with a special pay of Rs. 40 per mensem. The Fund Machine Operator is a post-Desai Award (RBI) category. The present scale of pay therefore is the same as that of the Sorter/Tabulator Operators with a special pay of Rs. 15 per month. I am also fixing

him in the clerical scale and giving him a special pay of Rs. 40 per month. The Supervisor, Machine Section is now treated on a par Assistants and I am now prescribing for him the scale of pay of the Assistants.

3.126. Then there is a demand made by the Association with respect to Audio-Visual Operator. It is stated in Ex. B-121 that prior to 1962 the Bank was engaged in the Audio-Visual educational programme including the production of films; that in 1962 this work was transferred to Government of India and that the post of Audio-Visual Operator was abolished, but that certain films are retained by the Bank and a Duftry who is a Class IV employee has been entrusted with the work of exhibiting them and that he is paid a special pay of Rs. 15/- per month in addition to his regular pay. The demand of the Association is that this Duftry should be paid as a Class III employee and the special pay should be raised to Rs. 30/- per month. The Bank contends that on the facts stated above the question really is one of raising the pay of Class IV employee and that it is not covered by the reference. I agree. The post itself having been abolished what survives is only the question of emoluments of a Duftry and that is not before me.

3.127. The Organisation has demanded that Franking Machine Operators should be paid a special pay of Rs. 20/- per month. The Bank has pointed out in Ex. B-127 that there is no such post in the Bank and that the franking of postal covers is not sufficient to keep an employee engaged for the whole day and that Clerks Grade I are posted to do that work. This demand is, therefore, rejected. Then there is a demand of the Organisation relating to Burrough-Machine Operators. This is not one of the categories mentioned in the Desai Award (RBI). It is not clear on the materials placed before me whether there is such a separate category at present, or whether as in the case of the Franking Machine Operator, the duties of the Burrough-Machine Operator are performed by an employee from the clerical cadre. The Organisation has demanded a special pay of Rs. 20/- per month for him. The Bank resists this and states that he may be grouped along with the Tabulator/Sorter Operators and that in view of the scale of pay to be prescribed for them there is no case for a special pay to be prescribed therefor. If there is a distinct post of Burrough-Machine Operator in the Bank, then on the basis of the statement in Ex. B-127 he will be given pay on the clerical scale with a special pay of Rs. 30/- per month. This question will not arise if there is no separate post of Burrough-Machine Operators in the Bank.

Compounders:

3.128. There are now two classes of Compounders and their pay scales in 'Higher Pay Centres' are:—

Compounder Gr. II.—Rs. 140—5—190—6—220. (16 years)

Compounder Gr. I.—Rs. 155—5—165—8—181—10—211—EB—10—221—12—305—15—350. (19 years)

The contention of the Association is that the present scales of pay given to Compounders is very low and that there is no reason why the scale of their pay should not be the same as that of the clerical staff. Another contention urged is that Compounders Grade I should be given a special pay of Rs. 50/- per mensem. It is also claimed that part-time Compounders in the Bank should be paid pay and emoluments proportionate to the number of hours they work with a minimum. The Association has filed Exs. A-39, A-40 and A-48 showing the comparative emoluments of Compounders in certain commercial concerns. Exhibits A-66, R-67 and 0-21 are notes on the claims made on behalf of the Compounders. The reply of the Bank is contained in Exs. B-38, B-110, B-111, B-119, B-120 and B-127.

3.129. It is urged in support of the claim of Compounders for increase in their pay that they have to perform responsible duties requiring special skill, that they have to work on holidays and that they have no sufficient promotional opportunities. The Bank contends that "the Compounder is not required to have any special knowledge other than what a Compounder in any dispensary is required to possess (vide Ex. B-38). But as pointed out in the Report of the Second Pay Commission, ever since the coming into force of the Pharmacy Act, 1948, "Pharmacists have now to undergo a rigorous test and have to be registered under the Act. The minimum entrance qualification is Matriculation, with a period of training for three years" (page 198, para. 33). The Commission also observed that there were not adequate promotional avenues for Compounders and that therefore there should be a selection grade for them. It has also been pointed out on behalf of the Association that the emoluments of Compounders in Government service are somewhat on a par with those of the Clerks. In my opinion the scale of pay to be prescribed for Compounders should be the same as that of the clerical staff.

3.130. As regards Compounders Grade I, they will be given in addition to the pay as fixed for Compounders Grade II, a special pay of Rs. 20/- per mensem. Then there is a question raised about the Senior Compounder Grade I, Bombay, who is now paid in addition to his basic pay and allowances a sum of Rs. 25/- per mensem as special pay. As claim has been made by the Federation for increasing this amount. But in view of the higher pay which all the Compounders will get under revised scale, there is no need to increase the sum of Rs. 25/- per mensem. It should also be made clear that this sum of Rs. 25/- per mensem is in lieu of the special pay of Rs. 15/- per mensem payable to Compounders Grade I and not in addition thereto.

3.131. There is *finally the question of part-time Compounders.* At present the practice is for the Bank to enter into separate agreements with each of the employees fixing the hours of work and pay suitable to the local conditions. The demand of the Association is that they should be paid emoluments proportionate to the number of hours put in by them as compared to the total number of hours of work put in by a full-time Compounder (vide Ex. A-67). In support of its demand, the Association relies on the following provisions in the Bipartite Settlement:

> "Part-time workmen other than those belonging to the subordinate staff shall be paid one-third of the basic pay, special allowance, house rent allowance and other allowance, if any, and dearness allowance and shall also be entitled to one-third of the annual increments, payable under this settlement to full-time workmen provided that the total working hours of each part-time workman shall not exceed 12 per week."

[*Vide* page 8, para. 4.5(a) of Bipartite Settlement].

3.132. It will be seen from Ex. A-69 that part-time Class IV employees are paid half of the basic pay, special pay and other allowances admissible to full-time employees if their hours of work exceed 13 per week; three-fourth of the same if it extends to over 19 hours per week and if it exceeds 29 hours per week they are paid on a full-time scale. The argument of the Association is that part-time Compounders should likewise be given emoluments on a proportionate basis. It appears from Ex. B-111 that the Bank on a review of the entire situation has decided to extend to part-time Compounders also the same scale of pay and allowances as are given to Class IV part-time employees and that further it has been given effect to it, as from 7th February 1967 on which date the said scale becomes applicable to Class IV employees. This substantially satisfies the claim made on behalf of the part-time Compounders. It will be as shown in Bank's Ex. B-111. But the question arises as to from what date this revised provision will take effect. There has been an agreement between the parties to this arbitration that the scale of pay to be fixed under this Award is to take effect from 1st January 1966. Therefore, the revised provisions of pay and allowances to part-time Compounders would have retrospective operation from 1st January 1966. But then it is stated in Ex. B-111 that the revised scale will operate only from 7th February 1967. That introduces a complication. But as the number of part-time Compounders is stated to be about 9 (*vide* Ex. B-110), and as this is the scale which I would have adopted even apart from the decision of the Bank, I am making it clear that the revised provisions would take effect, along with the other scales, from 1st January 1966.

Telephone Operators:

3.133. There are at present two grades of Telephone Operators in the Bank and their respective scales of pay are Rs. 155—390 and Rs. 185—430 respectively. The unions ask for increase in their pay and have filed Exs. A-42, A-43, A-44, A-45 and F-41 to show the comparative position in certain commercial concerns, commercial banks and in Reserve Bank. The Bank has filed in reply Exs. B-31 and B-38. In Central Government service there are Telephone Operators and above them Telephone Monitors who supervise the work of Telephone Operators. The Second Pay Commission has recommended that the Telephone Operators should have the same remuneration as Clerks and that, in view of the inadequacy of promotional opportunities, there should also be a selection grade. In commercial banks there is only one category of Telephone Operators and they are paid on the clerical scale and in addition a special allowance of Rs. 8/- per mensem, in 'A' Class banks. Adopting the recommendation of the Second Pay Commission, I have prescribed for Telephone Operators Grade II the same scale of pay as clerical staff and I have readjusted the scale of Telephone Operators Grade I.

Stenographers:

3.134. There are at present two categories of Stenographers. The scale of pay of Grade II is Rs. 185—450 and that of Grade I is Rs. 255—485. The Association and the Federation have asked for higher scales of pay. Exhibits A-37, A-38, A-46, A-91 and F-34 relate to this claim. The Organisation demands that in addition to a higher scale of pay for both the grades of Stenographers, a special pay of Rs. 40/- per mensem for Stenographer Grade II (*vide* Ex. O-26). The Bank resists the claim (*vide* Exs. B-31, B-121 and B-127). Though there are two grades of Stenographers, there does not appear to be much of a difference, in their duties. It is the contention of the Bank that the higher grade is provided only as a promotional avenue to the Stenographers. In commercial banks there is only one scale for all Stenographers and that is the clerical scale. In addition a "Special Allowance" of Rs. 40/- per mensem is given. The demand of the Organisation, therefore, that there should be two different grades and in addition a special pay derives no support from the practice in the commercial banks. There might have been a question whether it would not be more logical to have one grade and grant it suitable special pay. But the system of two grades has been in existence for a long time in the Bank and there is no demand for fixing one grade for all. Then the only question is what should be the proper scale of pay for the two grades. On a consideration of all the circumstances, I am fixing Grade II in Group III on a scale of Rs. 230—560 and Grade I in Group VII on a scale of Rs. 350—600/-.

3.135. There are some more demands made by the Organisation such as special training for Typists and Stenographers etc. Having considered the matter, I am of opinion that these demands should be rejected.

Draftsman:

3.136. At present there are two grades of Draftsmen in the Reserve Bank. The scale of the Junior Draftsman is Rs. 185—430. The demand of the Association is that the scale should be raised to Rs. 210—620. The Federation demands a scale of Rs. 220—575 and the Organisation wants Rs. 240—690/-. It is said that the Draftsmen have no promotional avenues and that they are called upon to operate Photostate machines for which no separate allowance is given. Exhibit A-47 has been filed for showing the scales of pay of Draftsmen obtaining in certain commercial concerns. Exhibit A-141 has been filed for the purpose of showing that their qualifications are fairly high and their duties onerous. Annexure II to Ex. A-141 is a chart wherein the position of Draftsmen with reference to their promotional avenues is brought out. There are seven Draftsmen in the Bank's service of whom five are juniors and two seniors. There is no room for complaint from the point of view of the proportion between the two ranks. But there is the inescapable fact that as the strength of the cadre is itself limited, the chances of promotion are also limited. In Ex. B-43 the Bank has given the qualifications prescribed for a Junior Draftsman. They have to pass Matriculation or an equivalent examination and have the Diploma in Commercial Art or a Certificate of advanced Examination in Commercial Art. In Central Government there are several grades of Draftsmen and the scale which in point of qualification comes nearest to that in the Reserve Bank is Rs. 150—240. The Second Pay Commission has recommended that where there are no outlets for promotion, 10 per cent. of the posts of Draftsmen on the scale of Rs. 105—240 should be put on a selection grade in the scale of Rs. 205—280 (*vide* page 184, para. 59). But this is unworkable in the Bank having regard to the strength of the cadre. On a consideration of all the circumstances, I have come to the conclusion that the Junior Draftsmen should be started on a higher scale than that of clerical staff, but that the maximum should be the same. as that in that scale. The scale of pay of the Senior Draftsman now is Rs. 255—570 and I am now fixing it at Rs. 315—715/-.

Translator and Language Assistant:

3.137. There are seven posts of Translators in the Bank and their present scale of pay is Rs. 185—430. The duties relating to this category are set out in Ex. A-83 and B-38. Under the Bipartite Settlement, the Translators are entitled to the clerical scale. It will be seen that the existing scale of the Translators in the Bank is better than that of Clerks. Maintaining the same differential, I shall fix them in Group II along with Junior Draftsmen giving them a scale of Rs. 230—540/-.

3.138. There is one post of Language Assistant in the Bank. His job is "to translate various articles and materials received by the Bank in foreign languages

(French, German, Spanish, etc.) into English" (*vide* Ex. B-61). He is at present paid as an Assistant, the scale being Rs. 255—570. The Association has made a demand for special pay of Rs. 50/- per mensem for him. As for the basic scale, I am fixing him in Group VI, along with Assistants on a scale of Rs. 315—715. As for the special pay demanded by the Association, the Bank resists it and contends that even without a special pay, the existing emoluments are reasonable and that the present incumbent was given two additional increments at the time of his appointment. In view of this I must disallow the demand for a special pay.

Field Staff:

3.139. Under the Desai Award (RBI) the scales of pay fixed for the categories of Field Investigator and Field Inspector were the same as those of the Clerks and Assistants respectively. The Field Staff Association claims that their scales of pay should be higher than that of Clerks and Assistants and their demand is for a scale of pay of Rs. 290—20—310—25—360—30—480—35—620 for Field Investigator and of Rs. 490—40—530—50—630—60—930 for Field Inspector. It is said in support of their claim that they have to tour villages after villages and collect materials from half literate villagers and their work is an arduous one. It is also said that many of them possess high qualifications. Exhibits X-1, X-2 and X-3 show that many of them possess high qualifications. It is also pointed out that the Government of India and the Planning Commission give the Field Staff a scale of pay higher than that of Clerks. There is also a claim for a compensatory allowance. The Bank opposes the claims. It contends that the qualifications for recruitment of the clerical staff are higher than those required for recruitment as Field Staff and that though it is true that some of the Field Staff have acquired good qualifications that is not a ground for fixing higher wages because the fixation of the scale must depend on the qualifications required for appointment and not on the qualifications actually possessed. It is also urged that comparison of the scales of pay in Government service, or in the Planning Commission cannot serve any useful purpose as there are several categories of clerical staff and the Field Staff and no single category can be taken to correspond to that in the service of the Reserve Bank. Thus, it is said, in Government service there are two categories of clerks and two categories of Field Staff and that in Planning Commission, the number of categories is even larger (*vide* Annexure 1 to Ex. B-101). It is accordingly contended that the scale to be prescribed for them must be the clerical scale and not anything higher than that. There is considerable force in these arguments. I am accordingly fixing for the Field Investigator the clerical scale of Rs. 192—540. But in the existing scale they are not entitled to special pay to which the clerical staff is eligible. I think justice will be done by directing that the Field Investigator also should, after completion of nine years of service, be entitled to a special pay of Rs. 20/- per month. This will also be in satisfaction of their claim for compensatory allowance. As for Field Inspectors their position has been assimilated to that of Assistants and the same pay scale has been fixed for them.

Electricians:

3.140. There are at present two grades of Electricians, Grade I and II and their scales of pay are Rs. 185—430 and Rs. 165—350 respectively. Making marginal adjustments, I have classed them under Groups III and I respectively, with pay ranges of Rs. 230—560 and Rs. 192—540, respectively. Under the existing scheme the Electrician Grade I in Bombay is being paid a special pay of Rs. 50 per mensem. This will continue to be paid to him under the present Award also.

Risk Allowance:

3.141. A claim is made that the employees of the Bank who have got to handle cash, currency and securities should be paid an allowance to compensate them for the risk involved in the job. The Bank opposes the claim. No such claim is recognised either in Government service or in commercial banks. I do not find any justification for introducing this innovation in the Reserve Bank.

3.142. As for the other categories, I have fixed their scales of pay and special pay with due regard to their duties and responsibilities. The scales of pay and

special pay for all the categories as fixed by me are shown in Table No. 4 hereunder:

TABLE NO. 4

I.—Scales of Pay

Category of Staff	*Scales of Pay*
Group I :	
1. Clerks Grade II.	Rs. $\frac{192}{1}$—$\frac{8}{1}$—200—$\frac{10}{3}$—230—$\frac{15}{4}$—290—EB—$\frac{15}{9}$—425—$\frac{20}{2}$—465—EB—$\frac{25}{3}$—540 (23 Years)
2. Clerks Grade I.	
3. Coin/Note Examiner Gr. II.	
4. Coin/Note Examiner Gr. I.	
5. Field Investigator.	
6. Typist.	
7. Typewritter Mechanic.	
8. Telex Operator.	
9. Punch Operator.	
10. Auto-Verifier Operator.	
11. Mechanic-cum-Operator.	
12. Comptometer Operator.	
13. Adrema Machine Operator.	
14. Burrough-Machine Operator.	
15. Tabulator Operator.	
16. Sorter Operator.	
17. Fund Machine Operator	
18. Telephone Operator Gr. II	
19. Assistant Air Conditioning Plant Operator.	
20. Compounder Grade II.	
21. Compounder Grade I.	
22. Hostel Supervisor.	
23. Electrician Grade II.	
24. Electrician-cum-Caretaker.	
25. Assistant Caretaker.	
Group II :	
1. Junior Draftsman	Rs. $\frac{230}{1}$—$\frac{15}{6}$—320—EB—$\frac{15}{3}$—365—$\frac{20}{2}$—405—EB—$\frac{20}{3}$—465—$\frac{25}{3}$—540 (18 years)
2. Translator	
Group III :	
1. Telephone Operator Gr. I.	Rs. $\frac{230}{1}$—$\frac{15}{6}$—320—EB—$\frac{15}{1}$—335—$\frac{25}{4}$—435—EB—$\frac{25}{5}$—560 (17 Years)
2. Electrician Grade I.	
3. Stenographer Grade II.	
Group IV :	
1. Caretaker Grade II. . . .	Rs. $\frac{275}{1}$—$\frac{15}{4}$—335—$\frac{25}{1}$—360—EB—$\frac{25}{7}$—535 (13 Years)
Group V :	
1. Air-Conditioning Plant and Electrical Supervisor.	Rs. $\frac{310}{1}$—$\frac{20}{5}$—410—EB—$\frac{20}{7}$—550 (13 Years)
Group VI :	
1. Economic Assistant.	Rs. $\frac{315}{1}$—$\frac{20}{6}$—435—EB—$\frac{20}{3}$—495—$\frac{25}{3}$—570—EB—$\frac{25}{1}$—595—$\frac{30}{4}$—715 (18 Years)
2. Statistical Assistant.	
3. Banking Assistant.	
4. Central Office Assistant.	
5. Language Assistant.	
6. Field Inspector.	
7. Supervisor, Machine Section	
8. Senior Draftsman.	

Group VII :

1. Teller.	Rs. 350—25—475—EB—25—600 (1, 5, 5) (11 Years)
2. Stenographer Grade I	

Group VIII : (Class II staff)

1. Personal Assistant.	Rs. 535—35—710—EB—35—850. (1, 5, 4) (10 Years)

Group IX : (Class II staff)

1. Personal Assistant to the Governor	Rs. 600—40—800—EB—40—960. (1, 5, 4) (10 Years)

II. Special Pay

Categories of staff	Quantum of Special pay (per mensem)	Remarks
1. Clerk Grade II.	Rs. 20/-	On completion of nine years of service and on crossing the first efficiency bar if the Special Pay admissible to Clerk Grade I is not sanctioned earlier.
2. Coin/Note Examiner Grade II.	Rs. 20/-	On completion of nine years of service and on crossing the first efficiency bar if the Special Pay admissible to Coin/Note Examiner Gr. I is not sanctioned earlier.
3. Field Investigator	Rs. 20/-	On completion of nine years of service and on crossing the first efficiency bar.
4. Typist	Rs. 15/- Rs. 35/- (in all)	— On completion of nine years of service and on crossing the first efficiency bar.
5. Typewriter Mechanic	Rs. 15/- Rs. 35/- (in all)	— On completion of nine years of service and on crossing the first efficiency bar.
6. Telex Operator	Rs. 25/- Rs. 45/- (in all)	— On completion of nine years of service and on crossing the first efficiency bar.
7. Clerk Grade I	Rs. 20/-	—
8. Coin/Note Examiner Grade I	Rs. 20/-	—
9. Punch Operator	Rs. 20/-	—
10. Auto-Verifier Operator	Rs. 20/-	—
11. Mechanic-Cum-Operator	Rs. 25/-	—
12. Comptometer Operator	Rs. 30/-	—
13. Adrema Machine Operator	Rs. 30/-	—
14. Burrough-Machine Operator	Rs. 30/-	If there is such a distinct category
15. Tabulator Operator	Rs. 40/-	—
16. Sorter Operator	Rs. 40/-	—

	Categories of Staff	Quantim of Special pay (per mensem)	Remarks
17.	Fund Machine Operator . .	Rs. 40/-	——
18.	Compounder Gr. I . . .	Rs. 20/-	——
19.	Senior Compounder Grade I in Bombay	Rs. 25/- (in all)	——
20.	Electrician Gr. I in Bombay .	Rs. 50/-	——
21.	Hostel Supervisor	Rs. 50/-	(as allowance which will *not* count as 'pay').
22.	Clerk in Telegram Section Bombay.	Rs. 50/-	(in lieu of overtime allowance)

3.143. Now that the pay scales have been fixed, we may proceed to consider how the total emoluments of the employees in the Reserve Bank compare with those in the commercial banks. Appendix 'D' to this Award is a comparative statement of the emoluments in the Reserve Bank and in the commercial banks. These emoluments include so far as the Reserve Bank is concerned not merely the basic pay and special pay as already decided but also the Family Allowance, Dearness Allowance, House Rent Allowance as per decisions *infra*, and as regards the commercial banks, basic pay, Dearness Allowance, House Rent Allowance and bonus.

It will be seen that on a long-term assessment of the overall position, the emoluments payable on the basis of this Award compares favourably with those in the commercial banks without taking into account the excess Provident Fund contribution of the Bank and when that is also taken into account they will be markedly higher.

CHAPTER IV

Method of adjustment in scales of pay

4.1. When a scale of pay or wages is revised the question must arise for decision as to the place in the new scale in which the existing workmen have to be fitted. Broadly speaking there are two modes of making that adjustment: One is to fit the employees in the new scales at a stage that corresponds to or is nearest to the pay drawn by the employee at the time when the new scales come into force. The other mode is to give an adjustment in the new scales in relation to the years of service an employee has already put in. This can be done either on the basis of point-to-point adjustment or stage-to-stage adjustment. While the point-to-point adjustment involves the placing of each employee at that stage in the new scale to which he would have risen by reason of his length of service, if the new scale had been in operation when he entered service, in the stage-to-stage adjustment an employee, who has reached a particular stage in the existing scale would be placed at the corresponding or the next higher stage in the new scale of pay. It is also usual to grant in addition to or in lieu of such adjustment additional increments varying with the length of service of the employee in the grade.

4.2. The comparative merits of the two modes of fitment stated above have been the subject of consideration by several Industrial Tribunals. Justice Divatia in his Bank Award observed that the result of adopting point-to-point adjustment would be to give the new scale retrospective operation and that that would operate unjustly on those who had crossed the efficiency bar and obtained increments for special qualifications; but if adjustments were to be made only on the basis of the existing salaries, seniors might have a grievance (para. 23). In the result the banks were left to make their own adjustments having regard to the facts and circumstances of each case. The Sen Tribunal discussed the pros and cons of the two methods elaborately in paragraphs 114 to 117 of its Award and adopted the point-to-point method subject to certain conditions. The Sastry Tribunal followed the recommendations of the First Pay Commission and adopted a compromise formula providing for certain number of increments to be granted according to the periods of service. The Labour Appellate Tribunal merely modified the directions as to the increments but did not interfere with the mode of adjustment adopted by the Sastry Tribunal. In the commercial banks reference,

the Desai Tribunal adopted the scheme of 'stage-to-stage' adjustment and gave specific directions as to how the adjustment was to be carried out. In the Reserve Bank reference the said Tribunal adopted the same principles and observed: "Having carefully considered all aspects of the matter including the method adopted for fixing the new scales of pay, I direct that workmen should be fitted in the new scales of pay from 1st January, 1962, on what I may call 'Stage-to-stage' adjustment basis, i.e., a workman who was drawing basic pay at a particular stage in the existing scale will draw basic pay at the same stage in the new scale applicable to him provided under this Award," (page 50, para. 3.86.).

4.3. The question has been considered by the Supreme Court in several cases. The leading case on the subject of fitment is the French Motor Car Company *Vs.* Their workmen [1963 Supp.(2) S.C.R. 16, A.I.R. 1963 1327, 1962 II L.L.J. 744]. Therein the Supreme Court laid down that normally questions as to adjustments would arise when the scales of wages are fixed in an industry for the first time; that where there had been such fixation, adjustments could be granted a second time only if the increments provided in the former wage scales were particularly low. These principles were affirmed in Hindustan Times *Vs.* Their workmen [1964 (1) S.CR. 234, A.I.R. 1963 S.C. 1332, 1963 I L.L.J. 108] and in Greaves Cotton & Co. *Vs.* Their workmen (A.I.R. 1964 S.C. 689, 1964 I L.L.J. 342) wherein it was further observed: "The question therefore whether adjustments should be granted or not is always a question depending on the facts and circumstances of each case." See also Calcutta Insurance Co. Ltd. *Vs.* Their workmen (A.I.R. 1967 S.C. 1286, 1967 II L.L.J. 1) and Kamani Metals & Alloys Ltd. *Vs.* Their workmen (A.I.R. 1967 S.C. 1175, 1967 II L.L.J. 55).

4.4. Turning then to the facts of this case, reference should first be made to the pleadings of the parties. In their statements, all the unions have asked for 'point-to-point' adjustment. In its written statement, the Bank pleaded, "in view of the fact that the time or incremental scales have been in existence and generous adjustments were made in 1946, 1948, 1953 and 1962 under the Desai Award (RBI), no question can arise of any more adjustments and certainly, no 'point-to-point' adjustment" (page 38, para. 54). If these were all the facts that had to be considered then it might well be said, having regard to the decision of the Supreme Court in French Motor Car Co. *Vs.* Its workmen [1963 Supp. (2) S.C.R. 16, A.I.R. 1963 S.C. 1327, 1962 II L.L.J. 744] that no question of adjustment arises. But then there is a shift from the Working Class Index to the Middle Class Index, and that would necessitate adjustment. At the hearing, the Bank, while pleading for the adoption of the 'Middle Class Index', has submitted: "It would not also be appropriate to fit the employees in the revised scale at the stage next above their existing pay........In these circumstances the proper and correct method of adjustment would be......the fitment should be......by increasing the present pay of the employees by such percentage as may be decided by the Arbitrator". In Ex.B-145 the Bank has worked out how the fitment scheme would operate on the basis of the addition of a fixed percentage. It will be seen therefrom that under the formula suggested by the Bank employees in two or three stages in a category may have to be fitted in the same stage in the new scale. The course to be adopted in such cases has thus been stated by the Bank: "In such an event the employee drawing a higher pay in the existing scale should be given his increment on the normal date admissible to him. In the case of others, their dates of next increment should be postponed to the anniversary of fixation." The unions in their reply have claimed a 'stage-to-stage' adjustment (*vide* Ex. A-141, para. 346 and Ex. 0-75). They rely, in support of this, on the provisions in the Bipartite Settlement and in the agreement entered into by the Bank with its Class IV staff.

4.5. On a consideration of all aspects of the matter, I adopt the 'stage-to-stage' mode of fitment demanded by the unions. But certain special directions are necessary for an equitable adjustment of the rights of parties. In the process of reducing the number of scales, I have brought under the clerical scale certain categories of workmen-employees whose existing scale of pay at the start is higher than the clerical start. The existing scale for Typists, Typewriter Mechanics, Telex Operators are Rs. 165—430, whereas the scale of the clerical staff is Rs. 155—420. Now that I have given all of them the clerical scale Rs. 192—540, to make up for the difference at the start, I direct that they be given one increment in the new scale. Then there are Electrician Grade II, Assistant Air-Conditioning Plant Operator. Electrician-cum-Caretaker, whose initial pay is also higher than the clerical staff. They will be given two increments after fitment, in the new scales. I am not giving similar directions in the case of certain other categories whose initial pay is also higher than that of the clerical scale and who are now fitted in the clerical scale, because I have given them 'special pay' to make up for this difference. I also decide that special pay shall not be taken

into consideration, in any case, for the purpose of fitment. In some categories the span has been increased suitably to the range of the new scale. This will not be a ground for persons who have reached the highest point in the span under the existing scales to be fitted at any higher stage. One of the demands of the unions is that efficiency bars should not enter into the reckoning for purposes of fitment. I accept this demand. This, however, does not preclude the Bank from enforcing these bars, at the appropriate stage, after the fitment is made. I also direct that after the fitment is made in the new scales in accordance with the principles stated above, the increments accruing thereafter should be given on the same dates on which they would have fallen due in the existing scales. It is necessary that a proper provision must be made if in the process of adjustment as aforesaid, the employee gets less than what he is now getting. With reference to this aspect of this matter, this is what the Bank has said: "If the revised emoluments of an employee as on 1-1-1966 is less than the emoluments due to him under the Desai Award scheme together with the 6 per cent temporary additional dearness allowance, the employee should be given a personal allowance equal to the difference. This personal allowance should be absorbed in future increases in salary" (*vide* Ex. B-145). This is in my opinion a just provision. I accept it, and direct that relief be given accordingly.

4.6. It remains to state the position as regards employees who joined the service of the Bank, on or after the 1st of January 1966. I direct, on the lines of the Desai Award (RBI), (page 51, para. 3.90) that "they will be fitted in the new scales of pay on the same principles as those set out above from the dates when they respectively joined service."

4.7. There are certain other miscellaneous demands relating to this matter. I disallow them.

CHEPTER V

Grant of increments or special pay or honoraria for graduates or for completing the Institute of Bankers' Examination or for National/Government Diploma in Commerce or for optional subjects in the Institute of Bankers' Examination and Hindi Examinations.

5.1. This demand has reference to certain special benefits given to employees who are graduates or have passed examinations of the Institute of Bankers or certain other examiantions. Exhibit B-122 sets out in great detail the genesis, and the development of this scheme, as regards graduates. It appears that during the period of the Second World War considerable difficulty was experienced in the recruitment of qualified persons to the cadre of routine clerks. Therefore, in order to make the post more attractive, it was decided by the Bank in 1942 to give an initial increment of Rs. 15 per month to graduates who had passed at least in second class and an initial increment of Rs. 20 per month to those who held double degrees or a postgraduate degree. This concession was granted only to persons who were recruited as Clerks Grade II. Subsequently this benefit was extended to employees who had been already recruited if they acquired the requisite qualifications stated above while in service. These provisions wree extended in 1948 to Coin/Note Examiners Grade II; in 1953 to Typists; and in 1959 to Coin/Note Examiners and Clerks Grade I. In the commercial banks also there were similar provisions and certain benefits were given to employees who obtained graduate degrees or passed examinations of Bankers' Institute.

5.2. The question as to the form and extent of the benefit to be given by way of special allowance has figured in several disputes, and there have been adjudications by tribunals thereon. By its Award dated 31st July, 1950 the Sen Tribunal directed that 'A' and 'B' Class banks should grant to graduates and to holders of diplomas who were graduates, a special allowance of Rs. 10 per month to be added to the pay to which the clerk would be entitled. Dealing with this question the Salary Award dated 5th March, 1953 observed as follows: "We think it is but right that persons with special qualifications or skill required for discharging work carrying with it greater responsibility than routine work should definitely have higher emoluments than an ordinary workman. There are three ways by which this extra payment may be provided for: (1) The employee may be given additional increments in the same scale. (2) He may be paid a lump sum allowance in addition to his other emoluments. This has the advantage of carrying a man even beyond the usual maximum limit. (3) He may be given a higher scale leading up to a higher maximum. We are of opinion that it is on the whole better to adopt either the first or the second method or sometimes even a combination of both," (para. 162). In the result the Tribunal gave to graduates two

additional increments in the basic scale of pay and to holders of Banking Diplomas, one increment for completing Part I of the examination and two for passing Part II. This was affirmed on appeal by the Labour Appellate Tribunal. In 1954 there was a revision of the wage structure by the Bank, and that resulted in an increase in the pay of the employees. It was then considered that the grant of advance increments of Rs. 15 to graduates and Rs. 20 for double graduates was not justified as the Sastry Award had recommended only two increments for banks in Class I Area and that worked out at Rs. 10 p.m., at the stage of entrance. It was accordingly decided that graduates in the Bank's service should be granted a monthly allowance of Rs. 10, representing two initial increments. It was also decided to treat graduates and post/double graduates on a par.

5.3. This was the state of affairs in 1960 when the dispute raised by the employees of the commercial banks and the Reserve Bank were referred to the Desai Tribunal for adjudication. Before the said Tribunal the Association demanded that graduates should be granted three, and post/double graduates four increments and that these benefits should be granted to all the employees in Class III. The Bank resisted the demand for increments on the ground that it would operate unequally at different stages, because an employee who passed the examination at the very beginning of his career would get less by way of increments than the one who obtained the qualifications later on in the course of his service. The Bank also contended that the quantum of benefit granted under the agreement of 1954 was reasonable and should not be disturbed. By its Award in the Reserve Bank reference dated 8th September, 1962, the Tribunal gave its decision in the following terms: "that all the members of Class III staff who are already in the service of the Bank who are graduates, who have hitherto not received any increment, be given a special pay of Rs. 10 per month......I further direct that a special pay of Rs. 10 per month be given to all members of Class III staff who, at the time when they join the service of the Bank, are graduates or who, at a subsequent stage, become graduates of any university irrespective of the class in which they pass the degree examination. No extra amount will become payable for double graduation. This special pay will be payable to them so long as they remain as members of Class III staff." (para. 3.49). Similar directions were given in the Award relating to commercial banks also.

5.4. In the present proceedings the demand of the Association is that the employees should be given increments and not special pay, and that where the maximum had been reached special allowance should be granted. The stand taken by the Organisation and the Federation is similar. They differ among themselves in their demands as to the amount payable as special allowance after the maximum in the scale is reached but they all agree that the scheme of special allowance now in force should be substituted by a scheme of increments. This demand follows in broad outline the terms of the Bipartite Settlement between the commercial banks and their workmen.

5.5. Now the point for decision is whether the present scheme of special allowance should be replaced by a scheme of increments. While both these schemes have been approved by the Sastry Tribunal, there is one feature which has weighed with the Desai Tribunal in turning the scale in favour of the present scheme. It is that the employees who in the very beginning of their service acquire these qualifications are at a disadvantage as against those who acquire these qualifications at a later stage, in that the quantum of their increments would be less than that of the latter. To this there has been no answer. It is true that the Bipartite Settlement in the commercial banks has gone back upon the Award of the National Tribunal and adopted a scheme of increments but then it is the result of a bargain, whereas the decision of the Tribunal was a judicial adjudication on the point.

5.6. Moreover, the present scheme has been in vogue for a long time and the rights of the parties have been worked out in accordance therewith. If a new scheme were now to be introduced there would then be two parallel streams running over the same field. Any attempt to co-ordinate them must lead to embarrassment and confusion. I am accordingly of opinion that there should be no alteration of the scheme as settled in Desai Award (RBI). I am also satisfied that the quantum of benefit granted thereunder is reasonable and does not call for any revision.

5.7. There are two other points which fall to be considered under this heading. One is as regards employees who entered the service of the Bank after the 1st January, 1962 and before Desai Award (RBI) was actually pronounced. Following the then existing practice, they were granted initial increments and they were

merged in the scale of pay then in force. As the result of the Desai Award (RBI), their scale of wages was revised, but it was made clear that the special allowance was not an increment. Now the demand of the Association is that in the case of these employees the special pay should be treated as increments in the wage scale as determined in the Desai Award (RBI). In my opinion this is not a matter which falls within the purview of this reference. The second question has reference to those who obtain the Government Diploma in Commerce. The demand is that they should also be entitled to the same benefits as the holders of the National Diploma in Commerce. While the latter has been recognised by the Central Government as of the requisite standard, the former has not been and therefore no claim for giving special benefits can be based thereon.

Institute of Bankers' Examinations:

5.8. Then there is the demand made on behalf of the employees who pass examinations of the Institute of Bankers. The scheme as it stood prior to Desai Award (RBI) was that employees in Class II who passed Part I of the examination were given a lump sum of Rs. 125 and those who passed Part II were given Rs. 250. But so far as the employees in Class III were concerned, those who passed Part I were given the option of receiving either Rs. 5 per mensem as special pay or Rs. 125 by way of lump sum payment and those who passed Part II examination were given the option of taking Rs. 10 per mensem as special pay or Rs. 250 as a lump sum payment. Before the Desai Tribunal the Association demanded that an employee who passed Part I should be given an option to take either one increment or a lump sum of Rs. 200 and that one who passed Part II should have the option to take two increments or a lump sum of Rs. 400. The demand was opposed by the Bank. The Tribunal decided that only honoraria should be given to Class II employees who pass the examinations and that in the case of Class III employees, the option given to them to take honoraria or increment should stand. But the Tribunal considered that the amounts awarded by way of honoraria were low and decided that employees who passed Part I should get an honorarium of Rs. 200 and those who passed Part II Rs. 400.

5.9. Before me the unions have raised the same contentions. They demand that the employees who pass these examinations should all of them be given increments or honoraria, at their option and that further the amounts of honoraria should be increased. It is also claimed that where the employee has reached the maximum of the scale he should be given monthly allowance. For the reasons already given, I consider that a change over from the present system to one of increments is not called for. I am also of the opinion that the quantum of benefits granted by the Desai Tribunal does not require any modifications.

Diploma examinations in 'Co-operation' and 'Industrial Finance':

5.10. Coming next to the Diploma Examinations in 'Co-operation' and 'Industrial Finance' conducted by the Indian Institute of Bankers, the Bank was originally paying an honorarium of Rs. 75 to any employee who passed the above examinations. The Desai Tribunal raised this amount from Rs. 75 to Rs. 100. The question is whether this amount should further be increased. In my opinion this portion of the Award also does not require any modifications.

Hindi Examinations:

5.11. A new claim which has arisen after the date of Desai Award is honorarium for passing of Hindi examinations. This is awarded by the Bank to employees who pass, after they join service, a Hindi examination conducted by the Government of India or by Hindi Pracharak Institutes where the examination is of the standard of the matriculation or higher. An honorarium of Rs. 100 is awarded for each of the examinations subject to a maximum of Rs. 300. Now the demand of the unions is that for passing each examination there should be an increment in the scale or a higher amount of honorarium. In my opinion there are no grounds either for granting an increment, or for increasing the amount.

CHAPTER VI

Family Allowance

6.1. This is an allowance peculiar to the Reserve Bank. There is nothing like it in the commercial banks or in the Government. The rules govering the grant of this allowance, at present, are: (i) all the workmen employees in Classes II

and III are entitled to a monthly allowance at the rate of Rs. 10 per child subject to a maximum of Rs. 30 for three children; (ii) employees are eligible to draw this allowance only on completion of five years of service including temporary service; and (iii) the allowance will cease when the basic pay and Family Allowance of the employee exceed Rs. 650 per mensem. If both the husband and wife are employed in the Bank the husband will be elligible for the allowance if his pay and Family Allowance are less than Rs. 650 per mensem although their total pay exceeds that amount. When the wife is employed in the Bank and her husband is employed outside, the wife will not be entitled to this allowance if the pay and allowances of both of them together exceed Rs. 650 per mensem nor if the husband is entitled to a like benefit from his employer. This allowance will cease when the son or daughter reaches 25 years and earlier, if and when, the son or daughter secures employment, or in case of a daughter, she gets married.

6.2. All the unions have asked for a substantial revision of these rules. They want that the employee should be eligible for this allowance at the end of the first year of his or her service. The Federation and the Organisation further demand that the monthly allowance of Rs 10 should be raised to Rs. 15 per child and the Association demands that it should be raised to Rs. 20. They also want that the condition restricting the grant of the allowance to income within a ceiling should be abolished. They also contend that no distinction should be made in this regard between a male and a famale employee and that the latter should be entitled to the allowance without regard to the earnings of her husband elsewhere.

6.3 The Bank opposes the demands. It points out that it is only the Reserve Bank that grants this allowance and that it is purely an item of expenditure, that the amounts now allowed are reasonable and that the restrictive conditions should not be relaxed.

6.4 The history of this allowance is set out in exhibit B-99. In 1946 the Bank decided to introduce a scheme of giving financial assistance to its employees for educating their children, and it took the form of a Family Allowance. But as it has shaped itself, it has little of the character of educational grant. As pointed out by the Bank, this allowance is admissible on the completion of five years of service, irrespective of the age of the child and whether it goes to the school or not. What then is the true character of this allowance? It is not the case of either parties that it could be regarded as basic pay, which obviously it is not. It is the contention of the Bank that it should be treated as part of the general emoluments of the employees and taken into account for purposes of comparison with what the employees in commercial banks get. The unions demur to this and argue that the allowance is contigent and fluctuating and not available to all persons and that therefore it could not be taken into account for comparison of the emoluments received by the employees in commercial banks. There is considerable force in this argument. This allowance is undoubtedly anomalous in its present character. It can be regarded neither as wages nor as emoluments. It is merely a benefit granted to a section of the employees. It is for this reason that before the Desai Tribunal, the Bank pressed for its abolition altogether. In these proceedings the Bank states that "the Honourable Arbitrator may like to consider whether this scheme should not be discontinued", (*vide* exhibit B-99).

6.5. On this, two questions arise for decision: (1) Should Family Allowance be retained? and (2) if so, on what terms? In my view it would be unjust now to abolish a scheme which has been in operation for more than twenty years. As already stated, this is one of the items which have been regarded as compensating the employees in the Reserve Bank for the non-award of Bonus. Indeed in answer to a specific question by me whether the Bank wants the abolition of this allowance, Shri Phadke clearly stated that there was no such specific proposal. But then if justice requires its retention, it also requires that it should be so modified as to be capable of being regarded as part of emoluments for purposes of comparison with commercial banks. It must be a benefit that must be certain and not contingent and it must be available to all the employees. Having carefully considered the matter I am of opinion that the proper solution to the problem is to award Family Allowance to all the employees and to link it up with the basic wages as a percentage of pay. As the allowance has shed its character as educational grant for children, there is no reason why the definition of the word 'Family' should be limited to children, and why it should not include other dependants such as parents, and widowed sister. And this has been stressed by the unions. I accordingly direct that the Family Allowance be paid to

all the employees who have completed five years of service, including temporary service, at the rate of 5 per cent of the basic pay and that 'pay' for this purpose must mean, basic pay, special pay, officiating pay, and personal pay, if any. Having regard to the scale of wages of the categories of workmen involved in this dispute, I do not consider it necessary to impose any restriction based on the ceiling of the pay. Further, on the principle of this allowance as stated above, when both the husband and wife are employees of the Bank both of them would be entitled to it on their respective 'pay'. When the husband of an employee, in the Bank, is employed elsewhere, she will be entitled to get the allowance as stated above irrespective of the earnings of her husband. These directions will not affect the quantum payable to the employees under the existing scheme, if in fact that is more than what is payable under this Award but that will be subject to the restrictions under that scheme. An option, however, should be given to such employees to elect to take either under the existing scheme or under the present Award.

CHAPTER VII

Dearness Allowance

7.1. On my finding that the wage structure should be based on the Middle Class Survey Report and the Index Numbers based thereon, two questions arise for determination—Firstly, whether there should be full neutralisation of the rise in the Consumer Price Index Numbers, and Secondly, if the answer to the first question is in the negative what the appropriate percentage of neutralisation is that ought to be given and on what conditions.

7.2. On the first question the contention of the unions is that there ought to be full neutralisation. The Bank, on the other hand, contends that there should not be full neutralisation and that further there should be a tapering in the quantum of the Dearness Allowance to be allowed, the percentage being reduced by stages in proportion to the increase in basic pay. On the question whether there should be full neutralisation or not, there is not much room for controversy. The several Commissions and Judicial Tribunals which had to consider this question have all of them taken the view that while there should be full neutralisation in the case of the lowest categories of workmen, so far as Middle Class employees are concerned, it should be partial The First Pay Commission approved "the principle that the lowest paid employee should be reimbursed to the full extent of the rise in the cost of living and that higher categories of employees should receive a diminishing but graduated scale of Dearness Allowance", (page 46, 47, paras. 71, 72). The Fair Wages Committee also took a similar view and observed "that a lower rate of compensation should apply to the higher categories but that the amount of compensation must be based on salary scales or slabs", (page 24, para 45). In Buckingham & Carnatic Mills Co. Ltd., Madras Vs. Workers of the Company (1951 II L.L.J. 314) it was held by the Labour Appellate Tribunal that cent per cent. neutralisation would lead to a vicious circle and add fillip to the inflationary spiral, that there was no reason why the industrial worker should not make sacrifices like all other citizens, and therefore it should not be allowed. Adopting the same view, the Sen Tribunal observed that "all salaried persons, especially of the Middle Classes, are called upon to make sacrifices in the present times in view of the existing low level of the national standard of income and that even the poorest representatives of such classes must not shirk the duty of shouldering of a part of the burden which has fallen on the entire nation" (page 53, para. 120). In the result, it recommended neutralisation at percentages varying from 94 to 50 depending on the income ranges. The Sastry Tribunal gave 75 per cent. neutralisation and the Desai Tribunal awarded Dearness Alloyance at 100 per cent. neutralisation for subordinate staff and to other workmen staff at 75 per cent. The S.K. Das Commission, discussing this question observed that the Middle Class families were in a position to cut down their expenditure on non-essential articles and thereby mitigate the effect of the rise in prices and for that reason the neutralisation must descend rather steeply when Middle Class families are reached. The actual rate of neutralisation fixed by that Commission varied from 90 to 20 per cent. The Gajendragadkar Commission also proceeded on the same lines and framed a scale of Dearness Allowance providing for neutralisation from 90 per cent. down to 24 per cent. depending on the quantum of pay. I have reserved to the last what may be said to be conclusive of the question. In the Clerks and Depot Cashiers of the Calcutta Tramways Co. Ltd. Vs. Calcutta Tramways Co. Ltd. (1956 S.C.R. 772, A.I.R. 1957 S.C. 78, 1956 II L.L.J. 450) discussing the point as to the percentage of neutralisation that ought to be allowed the Supreme Court referring to the decision in the Buckingham & Carnatic Mills Co. Ltd.. Madras Vs. Workers of the Company (1951 II L.L.J. 314) quoted above, observed: "We can now take it as

settled that in matters of the grant of Dearness Allowance except to the very lowest class of manual labourers whose income is just sufficient to keep body and soul together, it is impolitic and unwise to neutralise the entire rise in the cost of living by Dearness Allowance More so in the case of the Middle Classes." As the workmen concerned in this dispute belong to the Middle Class the claim for cent per cent. neutralisation must, accordingly, be disallowed.

7.3. That brings me on to the question as to the appropriate percentage of neutralisation that ought to be granted. On this there has been no uniformity among the Tribunals. It has varied from 94 per cent. to 20 per cent. depending upon the scales of pay. But both in the Sastry Award and the Desai Award a flat rate of 75 per cent. has been fixed as a fair average of the clerical staff. The Bank has, in its written statement, pleaded that there should be tapering of the percentages of neutralisation graded according to the scales of pay and has suggested, a scale starting with 75 per cent. as at present under the Desai Award (RBI), and tapering, with different pay ranges, to 40 per cent. At the hearing, however, it has suggested, with reference to the Middle Class Index, a tapering from 90 per cent. down to 60 per cent. (*vide* Exs. B-76 and B-83). If I had continued the Working Class Index, I should have retained the neutralisation at the flat rate of 75 per cent. as awarded by the Sastry and Desai Tribunals. But, now that I have adopted the Middle Class Index, having regard to the "sluggishness" of the Middle Class Index Numbers, I direct that there should be neutralisation of the rise in the Urban Non-Manual Consumer Price Index Numbers at 90 per cent when the basic pay is Rs. 500 per mensem or less, and when it is above that figure, for the basic pay upto and inclusive of Rs. 500 per mensem as above, and for the balance at 75 per cent.

7.4. There is one other question to be decided and that relates to the mode of calculating Dearness Allowance. Under the Desai Award (RBI), Dearness Allowance was to be calculated on a quarterly basis with four points as a unit That is to say, the difference between the basic Number and the Index Number for a quarter is to be worked out, and on that difference, every 4 points should be taken as the basis for calculation of Dearness Allowance; the points falling short of four not counting for the allowance. It has been argued on behalf of the unions that the calculation should be made on a monthly basis and point to point. In Central Government the calculation is made on twelve-month basis and on slabs of ten points. That is how it has been provided for in the Gajendragadkar Commission Report (*vide* page 36, para. 7.6). The provsions in the Desai Award (RBI) must therefore be said to be liberal and I am therefore adopting them. Then, there is the question as to how the quarters are to be calculated. The Desai Award (RBI) provided that "quarter" shall mean the periods ending with the last day of March, June, September or December. That will be the scheme under this Award also. As this Award is to operate from the 1st of January 1966 the Dearness Allowance for the quarter ending 31st March 1966 shall be determined on the basis of the Index figures for the quarter ending December 1965 and so on. If the Index figures for any "quarter" are not published in time the allowance shall be calculated on the basis of the Index figures for the previous available "quarter" and the difference will be adjusted after the relevant Index figures are published. "Pay" for this purpose shall include, in addition to basic pay, special pay and officiating pay, if any.

7.5. It should be mentioned that the Organisation pleaded in its statement that Dearness Allowance should be fixed for each centre, not on the basis of the All-India Index figures but on those of each centre. This contention was abandoned at the hearing and it is therefore unnecessary to deal with it.

CHAPTER VIII

House Rent Allowance, Travelling and Halting Allowances, and Officiating Allowance

I.—*House Rent Allowance*:

8.1. Under the Desai Award, Class II and Class III workmen have been given a House Rent Allowance at 10 per cent. of the "pay" which is defined as meaning

basic pay, special pay and officiating pay, subject to a maximum which varies according to the centres and the pay ranges, as shown below:—

Pay Range	At Bombay Calcutta, New Delhi & Madras	At Bangalore, Kanpur, Ahmedabad & Hyderabad	At Other places
(i) Upto Rs. 475	Rs. 25 p.m.	Rs, 20 p.m.	Rs. 12 p.m.
(ii) Above Rs. 475 but not more than Rs. 575.	Rs. 30 ,,	Rs. 25 ,,	Rs. 18 ,,
(iii) Above Rs. 575 but not more than Rs. 675.	Rs. 35 ,,	Rs. 30 ,,	Rs. 25 ,,
(iv) Above Rs. 675.	Rs. 40 ,,	Rs. 35 ,,	Rs. 25 ,,

8.2. All the unions have made a claim for substantial increase in this allowance. The demand of the Association is that it should be raised from 10 per cent. to 15 per cent., with a minimum of Rs. 40/- per mensem, and without any ceiling as to the maximum; that of the Federation is that it should be increased to 15 per cent. with a minimum of Rs. 50/- per mensem; and that of the Organisation is that it should be 25 per cent. of the pay with a minimum of Rs. 55/- per mensem and without any limit on the maximum.

8.3. Under the Bipartite Settlement, the House Rent Allowance payable by the commercial banks to their employees is, in the case of 'A' Class banks situated in Area I, Rs. 18/- per mensem for the pay range between Rs. 150 to 300 per mensem and Rs. 25/- per mensem when the pay exceeds Rs. 30 per mensem. That is also the rent allowed in the Bank of India. In the State Bank of India it is at 10 per cent. of pay with a maximum of Rs. 28/- per mensem in Bombay, Calcutta, Delhi & Madras. In Central Government service, the rent allowance varies with the centres and ranges of pay as shown below:—

Class of City		Pay	Rate of allowance
'A' Class and 'B—1' Class	(Bombay, Calcutta, New Delhi and Madras) (Hyderabad, Kanpur, Ahmedabad and Bangalore)	Rs. 100 to Rs. 300/-	15% of pay subject to a minimum of Rs. 20/- p.m.
'B—2' Class	(Jaipur and Nagpur)	Rs. 100 and above	10% of pay subject to a minimum of Rs. 15/ p.m.
'C' Class	(Chandigarh, Indore, Ludhiana Patna, Srinagar, Jammu and Trivandrum)	Below Rs. 500/-	7-1/2% of pay subject to a minimum of Rs. 7·50 p.m.
		Above Rs. 500/-	Amount by which pay falls short of Rs, 536/-

8.4. In support of their claim for substantial increase in the House Rent Allowance, it is urged by the unions that Reserve Bank has its offices in big cities which are State Capitals, or important commercial centres and hill stations; that there is considerable difficulty in getting accommodation in those places and that there has been a steep rise in the rates of rent. It is also pointed out that Officers are given an allowance of 15% of their salary, and that there are no grounds for making a distinction between the clerical staff and the Officers.

8.5. The Bank, on the other hand, contends that there have been now for several years, laws providing for fixation of fair rent in big cities, and prohibiting the increase thereof, that the existing provisions for rent allowable to the employees in the Bank compare favourably with those in 'A' Class commercial banks, and that there has been no such change in the circumstance as to warrant

revision of the rates. A further point raised on behalf of the Bank is—and it is this that has been strongly pressed before me—that if it is decided to change-over from the working class index to the middle class index for fixing the basic wages and dearness allowance, the claim for a House Rent Allowance becomes wholly inadmissible. The argument in support of this contention is that while housing is one of the elements taken into account in the preparation of both the working class index and the middle class index, the weightage given to it in the former is comparatively less and that there is, therefore, some justification for giving a special House Allowance when the basic wages are fixed in terms of the working class index; but that in the middle class index, full weightage is given to housing, and that therefore when basic wages are fixed in relation to that index, a provision for a further House Allowance must amount to a double payment. It is also said that the rise in the rent charges subsequent to the fixation of the middle class index will also be reflected in the annual middle class index figures, and that therefore the employees are fully protected against future rent increase. Logically, a separate House Allowance should, on this argument, be wholly abolished, when middle class index is adopted, but it is stated on behalf of the Bank that, as it has not asked for its abolition, it can only claim that the existing scale should not be raised.

8.6. In deciding whether there should be an increase in the House Rent Allowance, there are two factors which have to be taken into consideration. One is that there has been a marked rise in the rates of rent charged in the major cities. In spite of all attemps to rehabilitate villages, the exodus of population from rural to urban areas has continued unabated, resulting in shortage of housing accommodation in urban areas. There has been in consequence a continuous rise in the rent charges in big cities, against which the relief provided by the Rent Restrictions Acts has been limited and inadequate. It is this that makes out a case for increasing the existing rates of House Rent Allowance.

8.7. The second factor which must be taken into account is that I am now prescribing uniform scale of pay for all centres without distinction and that has been held to be a good ground for granting adequate House Rent Allowance in the major cities. Dealing with this question, the First Pay Commission observed: "In framing our recommendations regarding basic scales, we felt that uniform scales of pay could be prescribed only on the assumption that in the costlier cities and special areas the basic scale will be supplemented by the grant of suitable house rent or other allowance. On this ground, we recommend that a House Rent Allowance should be granted to all employees with certain restrictions as regards pay limits and areas." (Page 50, para. 78).

8.8. Acting on this principle, Industrial Tribunals, which had to adjudicate on pay scales in banks, have provided for House Rent Allowance in certain centres. Discussing the system of House Rent Allowance from the stand point of the middle class, the Sen Tribunal observed: "We have based scales of pay largely on the results of the enquiry made by Mr. Subramanian. The figures for monthly requirements of different classes of middle class employees of the Central Government given by him in his Report include the amounts required by such employees to be paid as house rent" (page 83, para. 217). On this ground the said Tribunal declined to make a provision for House Rent Allowance in general. At the same time, it directed the grant of a House Rent Allowance in the cities of Calcutta, Bombay, Ahmedabad, Delhi, and Kanpur on the ground that such an allowance had already been granted in Calcutta, Delhi and Kanpur on account of increase in the rates of rent charged. A similar approach was made in the Sastry Award. It was observed therein that House Rent Allowance was really an item to be taken into account in fixing the wage scale and that normally it would be included in calculating the cost of living but that where the rent charged was abnormal, a further House Rent Allowance could be made and on that ground an additional House Rent Allowance was granted for the employees in Calcutta, Bombay and at all places having a population of over 7 lakhs. This decision was affirmed by the Labour Appellate Tribunal.

8.9. This principle has also been adopted by the Second Pay Commission. After referring to the views expressed by the First Pay Commission, quoted above, it observed: "So, if House Rents in certain cities etc., continue to be abnormally high, a House Rent Allowance, as a separate form of compensation, would have to be continued." (Page 372, para. 5). Accordingly the Commission provided for different rates of House Rent Allowance in different cities on the basis of their respective population.

8.10 Does it make a difference that I ame adopting the Middle Class Survey and Index Numbers based on that as the basis for fixing pay scales, and not the Working Class Index? It is true that greater weightage is given to housing in the former than in the latter. That is a factor to be taken into consideration in

determining the pay scale. But when once a uniform scale of pay is fixed for all the centres, separate House Rent Allowance has necessarily to be granted to make up for the higher rent payable in the major cities. In this context, the following observation of the Second Pay Commission is in point: "The cost of living (consumer price) index numbers are not designed to, and do not in fact, provide criteria for a classification of cities according to their relative expensiveness." (Page 379, para. 23).

8.11. There is another reason why the Reserve Bank should grant a higher rate of House Rent Allowance in the major cities. Prior to the Desai Award (RBI), there was one uniform pay scale for all the centres. But to make up for the higher cost of living in the major cities and the higher rate of house rent payable therein, the Bank was granting a "Local Pay" and a House Rent Allowance varying with the centres and the pay ranges. The Desai Tribunal merged the so-called "Local Pay" in the basic pay with the result that it classified the centres into two categories, *viz.* 'Higher Pay Centres', and other centres. As regards House Rent Allowance, the Tribunal retained the pre-existing scheme in so far as it recognised a difference based on the centres and pay scales, but it modified the quantum. It will be seen from this that the Bank has always recognised that the House Rent Allowance for the major cities should be higher. Now that I have adopted one uniform scale of pay for all the centres, the need for allowing House Rent Allowance for the major cities at a higher rate is all the more greater. Under this Award the employee in centres other than 'Higher Pay Centres' will have 'in addition to the House Rent Allowance payable to him, the benefit of a higher pay scale equal to that of the 'Higher Pay Centres'. That renders it all the more necessary that the scale of House Rent Allowance fixed for employees in 'Higher Pay Centres' must adequately absorb the higher rents payable by them.

8.12 Applying the principles stated above, I shall divide the centres into two categories, *viz.* "Higher Rent Centres" and "Other Centres". In the former will be included, Ahmedabad, Bangalore, Bombay, Calcutta, Hyderabad, Kanpur, Madras and New Delhi, and in the latter, the other centres. The House Rent Allowance in the "Higher Rent Centres" would be at 10 per cent of 'pay' with a minimum of Rs. 30 and a maximum of Rs. 55 per mensem. In the "Other Centres" the House Rent Allowance will be paid at a flat rate of Rs. 25 per mensem. "Pay" for this purpose will include basic pay, special pay and officiating pay. It will be open to the Bank hereafter, at any time, to notify any centre falling within "Other Centres" as a "Higher Rent Centre", if it is satisfied that it is called for by reason of the rise in the rates of house rent at that centre.

8.13. There is a special claim made by he Field Staff for payment of additional House Rent Allowance. It is stated on their behalf that they are transferred frequently and have to pay exorbitant rents for getting accommodation for short periods in different places. The demand is that they should be granted a special House Rent Allowance of Rs. 60/- per mensem. The Bank replies that the transfers are not frequent, that since 1963 the Field Staff units have been stationed at the same place, and that these places are district headquarters where it will not be difficult to get accommodation and that therefore no grounds have been made out for granting a spcial House Rent Allowance. Having regard to the area in which the Field Staff have to work, I am of opinion that there is no need for any special provision.

8.14. Lastly, it should be mentioned that various miscellaneous demands have been put forward such as the grant of loans for building houses and the like. These are not matters falling within the subjects referred to me for decision and I express no opinion on them.

II. *Travelling and Halting Allowance*:

A. *Travelling Allowance (on tour)*:

8.15. Under the existing rules when an employee of the Bank travels on official work, he is eligible for first class fare by rail and second class fare by steamer. If, however, he travels in a lower class, he is entitled to be reimbursed only the fare actually paid. Further, the fare is allowed on the basis of journey by the shortest route. Where the travel is by a longer route but the fare is cheaper, it is only that that is admissible. The demands of the unions are that the employee should be paid first class fare when he travels by steamer, that when, for compelling reasons, he is obliged to travel in a lower class, he should be paid the first class fare and that likewise he should be reimbursed the fare actually paid by him when he is obliged to travel by a longer route owing to causes beyond his control.

8.16. The Bank opposes the demands. It has filed Exhibit B-93 giving the relative position in the Reserve Bank, in 'A' Class banks and in the Central Government. In Government service, under the rule as it originally stood, when an employee travelled in a class lower than that to which he was entitled, the authorities could allow, for sufficient reasons, the fare for the higher class. That rule was deleted in March 1964 and the Government servant is now entitled only to the fare for the class in which he has actually travelled. In commercial banks also the rule is that when an employee travels in a class lower than the one allowed to him, he is entitled to be reimbursed only the fare actually paid by him. There is, however, a provision that the banks might allow the charges on the higher scale if the travel by a lower class was unavoidable and due to circumstances beyond the control of the employee (*vide* paragraph 6.65 in Desai Award relating to commercial banks). Thus, the position was practically the same in commercial banks and in Government service prior to the change in 1964.

8.17. The principles applicable in the determination of this question were thus stated by the Second Pay Commission: "The basic principles on which the rates of travelling allowances are determined are that they should not be a source of profit to the Government servant, but that they should be sufficient to protect him against loss, and for the discharge, conveniently, of his official duties. These are obviously sound principles, and whatever changes have been asked for on behalf of employees in the travelling allowance rates, etc., have, in effect, been sought to be justified on the ground that the present arrangements do not conform to the latter principles," (page 388, para. 50). Now examining the question in the light of these principles, it is indisputable that an employee should be reimbursed only the fare that he has actually paid. Otherwise travel would be turned into an occasion for making profits. Then the question is whether it would make a difference that the employee travels in a lower class not by choice but by force of circumstances. It has been argued for the unions that the true position in such cases is that the difference between the fare actually paid and the fare payable for the class by which he is entitled to travel is in the nature of solatium for the extra trouble and inconvenience which the travel in a lower class must entail. The contention is that this is covered by the second principle laid down by the Second Pay Commission. It is urged that the Bank itself has adopted this principle in the case of Coin/Note Examiners and that there is no reason why it should not be extended to all the employees. The rule relating to Coin/Note Examiners is that when there is, in the train by which they are travelling, no accommodation in the class to which they are entitled, they are paid the fares of the higher class. The unions claim that it would be illogical to make a distinction between Coin/Note Examiners and other categories of employees in the same position. It is pointed out on behalf of the Bank that even in the case of Coin/Note Examiners travelling on remittance duty, no first class fare is paid when there is no first class in the train by which they travel and the very limited exception in favour of Coin/Note Examiners should not either be further enlarged in their favour or made applicable to other classes of employees and that on the contrary, it should itself be abrogated, even as against them.

8.18. Though the contention of the Bank will bring it in line with the Central Government on this point, it will put it out of step with what is observed by the commercial banks. I agree with the contention of the unions. The payment of the fare for the higher class when the employee travels, in a lower class, whether it is because there is no such class in the train by which he travels, or that class being there, there is no accommodation therein, is really in the nature of compensation and cannot be equated with profits, and must be allowed. And it makes no difference whether the employee is the Coin/Note Examiner or any other employee travelling on duty. It must, however, be made clear that when an employee makes a claim for fare of a higher class while in fact he travelled in a lower class, it is for the Bank to satisfy itself that such travel was necessitated by causes beyond the control of the employee, and it is only then that the higher fare would be admissible.

8.19. It is also claimed that when an employee travels by steamer he ought to be allowed first class fare. Originally, it was only second class fare that was allowed to class III workmen both by train and by steamer. When sleeping accommodation was taken away in trains, first class accommodation was substituted therefor. The argument on behalf of the Bank is that no such problem arises in the case of travel by steamer because sleeping accommodation is available to passengers by second class and that therefore there is no ground for paying first class fare. I agree. No change, is required in the present position.

8.20. Then there is the question as regards the fare payable when the employee travels not by the shortest route but by a more circuitous route. The normal rule is that the employee is entitled to the fare payable for travel by the shortest

route, which means the route by which the employee can reach his destination in the shortest possible time by the ordinary modes of travelling. If fare actually paid for the circuitous route is less than what is payable for the shortest route, it is only the former that is admissible. Now the demand of the unions is that when an employee is obliged to resort to the circuitous route for compelling reasons, he should be allowed the actual fare paid by him. In the commercial banks, the relevant rule is that the claim for journey can ordinarily be only for the shortest route. In Government service also, it is only fare for the shortest route that is admissible, but "a competent authority may, for special reasons, permit mileage allowance to be calculated on a route other than the shortest or cheapest." In Exhibit B-93, the Bank has stated that the charges for travel by a longer route are allowed if the Officers-in-Charge are satisfied that that was due to compelling circumstances. But there is no rule actually to that effect. I accordingly direct that where an employee performs the journey otherwise than by the shortest route, the fare which he actually paid would be admissible, if the Bank is satisfied that such travel was due to causes beyond his control.

8.21. There are certain miscellaneous claims relating to charges incurred while travelling on duty; (a) the conveyance charges of the employee from his residence to the railway station in his outward-journey, the charges for the transport of his personal luggage from his residence to the station and the charges paid to the porter for carrying the luggage to the train; like charges at the place of destination for moving from the station to the temporary headquarters; similar charges incurred on return-journey from the temporary headquarters down to his residence; (b) charges incurred by the employee at the place of destination for going from the residence to the place of work and *vice versa*; and (c) travelling allowance for Field Staff.

(a) Conveyance charges etc.:

8.22. An employee while he travels on duty is now paid conveyance charges from his residence to the station at the rate of 50 paise per kilometre subject to a maximum of Rs. 8. The demand is that the charges should be paid at the rate of 60 paise per kilometre with a maximum of Rs. 10. Under the Central Government rules, conveyance charges are given at the rate of 24 paise per kilometre and in the commercial banks, the employee is paid the charges for hiring a tonga. The rule in the Reserve Bank compares favourably with the provisions either in Government service or in commercial banks, and no case has been made out for disturbing it. When the employee takes his personal luggage with him, he is now paid mazdoor hire charges up to a limit of 4 packages at the rate of 15 paise per package at the residence and at 25 paise per package at the station. The demand of the Association is that it should be at the rate of 50 paise for both the categories. Under the rules now in force in the Railways the rate chargeable by a porter is 40 paise per head-load not exceeding one maund. I think it would be equitable to allow in all 75 paise per package, instead of 40 paise now allowed for mazdoor hire charges, both at the residence and at the station, and this will be the rate at which the employee should be paid in his journey both to and fro, that is, both in the outward journey and inward journey and also at both the starting station and out-station.

(b) Charges incurred at the place of destination for going from residence to the place of work and vice versa:

8.23. At the out-station, the employee is now paid the charges for going from his residence to the office and for returning back to his residence at the rate of 15 paise per kilometre subject to a maximum of Rs. 2.50 per day. The demand of the Association and of the Organisation is that the charges should be paid at the rate of 20 paise per kilometre instead of 15 paise, where the Federation wants that it should be 25 paise per kilometre. As regards the maximum limit, while the demand of the Association is that it should be Rs. 4 per day, the Organisation and the Federation have demanded that there should be no ceiling. the demand of the Association is in my opinion reasonable. I would, therefore, allow charges on this score at 20 paise per kilometre with a maximum of Rs. 4 per day.

(c) Travelling Allowance for Field Staff:

8.24. Then there is a claim made by the Field Staff for modification of the present rules relating to their travelling allowance. At present the Field Investigators are paid a fixed allowance of Rs. 75 per month and the Field Inspectors

Rs. 105 per month. Now the demand is that they should be paid, like the other staff. Travelling Allowonce admissible under the rules for each journey. The Bank resists the claim. It contends that there is a fundamental difference in the nature of the journeys undertaken by the Field Staff and by the other staff. In the case of the former the time and the length of the tours cannot be defined beforehand. It is otherwise with the latter and it is for this reason that while Travelling Allowance is paid on the basis of the journey for the latter, it is fixed on a monthly basis for the former. It is said that a similar distinction is made in Government service also. Adoption of a scale of Travelling Allowance on the basis of journey for the Field Staff must result in great inconvenience. I must, therefore, hold that fixed Travelling Allowance is the proper method to be adopted with respect to the Field Staff. Coming next to the quantum, it is said for the Bank that they were fixed in the year 1963 and that there is no need for revision. Having regard to all the circumstances it will be fair to fix the monthly Travelling Allowance at Rs. 90 per month for the Field Investigators and at Rs. 120 per month for the Field Inspectors. In fixing this amount, I have taken into account the claim made by the Field Staff that they should have while on tour the services of an attendant. The Bank contends that the charges which the Field Staff will have to pay for attendants during tour are covered by the amount fixed and that there should be no separate charge therefor. As I have taken this charge also into consideration in increasing the monthly Travelling Allowance, no separate claim therefor will be allowed.

B. *Travelling Allowance (on transfer)*:

8.25. Then there are demands relating to the charges admissible to an employee who is transferred. At present workmen employees in Class II and III are entitled to travel along with their families in first class, by train and in second class, by steamer. In addition to the fares payable as above, an additional fare at the rate of 5 paise per kilometer for the distance from one station to the other, is allowed for covering incidental charges. Freight charges are also paid for transporting personal luggage upto 11.25 quintals in case the employee is married and 7.5 quintals, in case he is not. The fares are allowed at the rate payable for transport by goods train. The goods can also be taken in passenger train or through public transports but reimbursement can only be of the amount allowable under the rules for the maximum weight that could be transported by goods train.

8.26. The Organisation has made several demands with reference to this matter. First, it wants that the definition of 'family' for the purpose of this rule should be enlarged. Under the rules of the Bank, 'family' means an employee, his wife and their children residing with him and wholly dependant on him. The Organisation has asked for enlargement of this definition by inclusion of non-earning and dependant parents, brothers and sisters who are minors and widowed sisters residing along with the employee. But neither in commercial banks nor under the rules of the Central Government does the term 'family' includes parents, brothers or sisters dependant on the employee. There are no grounds, therefore, for altering the present definition of 'family'.

8.27. Secondly, the Organisation demands that the freight which is now allowed for transporting the personal luggage of the employee should be increased to 15 quintals, if the employee is married, and to 12 quintals, if he is not. In commercial banks the freight allowed on transfer is upto 7.6 quintals, if the employee is married, and 5.7 quintals, if he is not. In Government service, freight is allowed upto 11.20 quintals, in case the Government servant is married, and 7.50 quintals, in case he is not. Thus, the rule in the Bank compares favourably with that either in the commercial banks or in the Central Government in this matter. Therefore, there is no reason to alter it. The Organisation further demands that if the luggage is transported by road through recognised public conveyances, the charges actually paid by the employee should be reimbursed. In this matter, again the rule in Reserve Bank is in accordance with what is in force in Central Government and I do not see any ground to change it.

8.28. Thirdly, there is the demand relating to incidental charges. The demand of the Organisation is that this should be paid at the rate of 9 paise instead of 5 paise per kilometer as at present. The ground put forward in support of this claim is that, that is the rate at which Officers are being paid. But comparing what is given to the employees of the same class in commercial banks and in the Central Government service, in the commercial banks, half a second class fare by rail or steamer is paid to the employee on transfer as incidental charges and that comes to roughly 3 paise per kilometer. In Central Government service

the charge allowed comes to 48 paise per 10 kilometers or part thereof exceeding 5 kilometers [*vide* S.R. 116(a)(i)]. It will thus be seen that the rule in the Reserve Bank is more favourable than that in commercial banks or Government service, and it is this that furnishes a proper standard for comparison. There is, therefore, no ground for altering the present rule.

8.29. Fourthly, the Organisation has also made a claim for what has been called a 'breakage allowance'. It is said that when an employee travels on transfer, it is possible that he might suffer loss on account of breakages of his goods and personal belongings, or of damage caused to them while on transit. No such claim is now recognised under the rules of the Bank. The Desai Tribunal dealing with a similar claim made by the employees of the commercial banks observed "A claim has been made that on transfer, an amount equivalent to one month's salary should be paid in order to cover breakages and other incidental expenses and to enable the workman to settle down in the new place of employment. Whenever goods have to be transferred from one place to another there is a possibility of breakage or of damage to goods. On transfer, often expenses have to be incurred which would not otherwise have to be incurred. In order to compensate an employee for such losses and expenses, I direct that on transfer a sum of Rs. 25 in lump should be paid to all workmen other than those belonging to the subordinate staff," (page 191, para. 6.75). This provision has been in force ever since, in the commercial banks and I do not see why there should not be a similar provision in the Reserve Bank also. I accordingly direct that the employees of the Bank be paid on this account, a consolidated sum of Rs. 25 for the travel from the place from which, to the place to which, they are transferred.

8.30. Fifthly, there is a demand for what is called 'a settlement allowance'. The claim of the Organisation is that when an office of the Bank, or a section thereof, is closed and following thereon an employee is posted to some other place, he should be paid a sum of Rs. 2,000 to enable him to meet the costs of settling down in the new place. Now, the true position is that when a branch at a place or a section thereof is closed, there would be retrenchment and the only right of the employee then is to be paid the retrenchment compensation. He is not entitled to be absorbed in the service of the Bank, in any other branch. In this situation, the Bank can either terminate his services paying him retrenchment compensation or offer to continue his service in the Bank by absorbing him at another branch. If he elects to accept the latter, he will be paid the charges as on transfer. When, therefore, the employee elects to continue in service and is transferred, there can be no claim for compensation for settling down in the new place. That will in effect amount to giving him both the retrenchment compensation and continuity of service without a break. This claim must, therefore, be rejected.

8.31. There is one other claim of the Organisation which also can be considered at this stage. It is not one made in connection with the travel of an employee, whether on transfer or otherwise. It is one made on behalf of all the employees of the Bank who attend offices in the normal course of their duty. It is said that all of them should be paid conveyance charges to meet the transport charges from their residence to the office and back. In other words, every employee should, in addition to his salary, get a conveyance allowance. Considering such a claim the Second Pay Commission said : "It may first be considered whether the general policy that travel between place of work and residence is the employee's responsibility is sound. This policy is not peculiar to the Central Government; the State Governments and other employers in the country too follow the same general policy. Also, in foreign countries of which we have some information, the general practice of employers is similar. There are exceptions, however, and the conditions most commonly found for the provision of transport by an undertaking are that the place of work is at a considerable distance from the worker's residential area, and that adequate public transport is not available, and cannot be provided. Considering the general practice in India and abroad, the fact that often the employee himself chooses his place of residence and that any extensive system of transport concessions would involve a great deal of additional expenditure, we are of the opinion that the present policy does not call for any change," (page 392, para. 60). Agreeing with this view I reject this claim.

8.32. There is one other question which may be considered at this stage. It relates to a demand for what has been called travelling charges to Srinagar employees when that office is shifted to Jammu. Since 1965 the Reserve Bank office

at Srinagar is being shifted every year during the winter months to Jammu and then again, it is shifted back to Srinagar at the end of the winter season. The demand now is that the employees in Srinagar office should be paid a sum of Rs. 150 as dislocation compensation when the office is shifted from Srinagar to Jammu and a like amount again when it is shifted back from Jammu to Srinagar and that further they should be paid a Deputation Allowance during the period of their stay at Jammu (*vide* Exhibit A-111). The Bank contests the claim on the ground that the rules providing for travelling allowance and Deputation Allowance are in terms in applicable to the present situation, but that an allowance is given for meeting the expenses of travel and other expenses incidental thereto, as if it a 'transfer' (*vide* Exhibit B-166). It is said that in this the Bank follows the rules observed in Central Government service. It should be pointed out that this question has not been raised in the pleadings and it is only in the course of the hearing that the claim has been put forward in Exhibit A-111. This, by itself would be a ground for disallowing it. But apart from this, it is a debtable question whether there is any 'transfer' or 'deputation' within the rules when the office is shifted from Srinagar to Jammu and back again from Jammu to Srinagar. If it had been pleaded and established that the allowance now granted by the Bank is indequate, a case for interference would have been made out apart from technical considerations based on the rules. But that has not been done and so I cannot entertain this claim.

8.33. There is a similar demand made by the Field Staff. When the work of the Field Staff in a particular area is completed the unit is shifted to another district in the same linguistic State. The contention of the staff is that for the period during which they have to work in the new place, they should be granted Deputation Allowance. The Bank disputes the demand and contends that the duration of work in the new area would usually be for more than six months and that, therefore, the claim would fall outside paragraph 7(1) of Appendix II to the Reserve Bank of India (Staff) Regulations, 1948. It is doubtful if any question of deputation can arise when the unit itself is transferred to a new place. But assuming that this claim is covered by the rule aforesaid, then the only question is whether on the facts of the particular case, the conditions laid down in the rule have been satisfied. This does not involve any question of principle but a decision on the facts in each case.

C. *Halting Allowance:*

8.34. Exhibit B-91 has been filed by the Bank for the purpose of elucidating the points in controversy with reference to Halting Allowance. The demands made under this heading may broadly be classed into four categories: (1) allowance at the outside station where the employee has to halt while on duty, (2) out-of-pocket expenses when the journey does not involve night stay, (3) charges payable when the employee is on medical leave while at the out-station, and (4) miscellaneous.

(1) *Halting allowance at out side station:*

8.35. The Halting Allowance now admissible to workmen concerned in this dispute varies with their salary and with the place of halting. Workman drawing a pay of Rs. 300 per mensem or more are paid at the rate of Rs. 10 per diem when they visit Bombay, Calcutta, New Delhi and Madras and at Rs. 8 per diem when they visit other places. When the employee gets a pay of less than Rs. 300 per mensem, the allowances respectively are Rs. 8 and Rs. 6 per diem. Now the demand of the Association is that employees drawing a pay of Rs. 250 or more per month should be paid at the rate of Rs. 15 per diem in centres where the Bank has its offices, State Capitals, hill stations, project areas and places with population of 5 lakhs and more; and at other places at the rate of Rs. 12 per diem, and that employees drawing a pay of Rs. 250 or less per mensem should draw respectively at Rs. 12 and Rs. 10 per diem. The Organisation makes a claim for an allowance at a flat rate of Rs. 15 per diem for all employees at all places. The Federation also claims that no difference should be made in the rate admissible on account of the pay range of the employee but wants that the rate should be at Rs. 15 per diem at certain specified places; at the rate of Rs. 12 per diem in the State Capitals, hill stations and places with a population of over 3 lakhs and at Rs. 10 per diem at all other places.

8.36. In the commercial banks also, the Halting Allowance payable varies with the place of stay and with the salary of the employee. In places in Area I and in places in which House Rent Allowance is given, the Halting Allowance is Rs. 12 per diem, if the employee draws a pay of over Rs. 300 per month and Rs. 10 per diem, if he draws less and at other areas it is Rs. 10 and Rs. 8 per diem respectively. In Central Government service, likewise, the Halting Allowance varies with

the salary of the employee and the place where he halts. In Bombay and Calcutta, it ranges from Rs. 8 to Rs. 13.30 per diem; in Delhi, Madras and Jammu and Kashmir, from Rs. 5.30 to Rs. 10.70 per diem and at other places at 25 paise for every Rs. 12.50 of pay subject to a maximum of Rs. 8 per diem. The contention, therefore, that the Halting Allowance should be the same for all employees and at all centres is in conflict with the practice in the Government and in the commercial banks, and cannot be accepted. Adapting the scale in force in the commercial banks under the Bipartite Settlement, I direct that employees drawing a pay of Rs. 300 or more per mensem be paid a Halting Allowance of Rs. 12 per diem in Calcutta, Bombay, New Delhi and Madras and at Rs. 10 per diem in all other places, and that employees who are drawing pay of less than Rs. 300 per mensem, be paid respectively at Rs. 10 and Rs. 8 per diem.

8.37. Another demand of the unions relating to this matter is with reference to the sliding scale. Under the rule as it stands, except in cases where the period of stay outside headquarters is of uncertain duration, halting allowance is allowed at the full rate for the first month, at 3/4th of the full rate for the second month, and for the rest of the period at half the full rate. The demand of the unions is that full rate should be allowed for the entire period. The Bank opposes this claim. In Government service, the rate of daily allowance is suitably reduced after the first ten days, unless there are special grounds, as for example, when the period of stay is uncertain. Thus, the Government servant is paid at full rate for the first ten days, 3/4th of the full rate for the next twenty days and thereafter at half the full rate. It is stated that the reason for adopting a sliding scale is that where the halt is for a definite period, it should be possible for the employee to make long-term arrangement for his stay. No valid ground has been made out for interfering with the existing rule, especially when it is on the pattern of the rules in force in Government service.

8.38. There is a connected demand relating to the employees deputed for training at zonal training centres. The question has been complicated by the fact that the trainees at the Staff Training College, Madras are provided with free boarding and lodging in the College hostel and are paid besides a halting allowance at 25 per cent. of what is admissible to them. The demand of the Association is that the trainees at the zonal training centres also should likewise be provided with free boarding and lodging, or should be given the Halting Allowance at the full rate for the entire period of their training. The answer of the Bank is that as there are no facilities for boarding and lodging in such centres, the Bank has to fall back on the rules relating to Halting Allowance and that there are no grounds why those rules should be departed from in the case of the trainees. In view of the fact that the rate of Halting Allowance has been enhanced, I am of the opinion, that the application of the sliding scale would not result in any injustice to the trainees.

8.39. Under the rules as they stand, Halting Allowance is paid to the staff sent on inspection, cash verification and remittance duty at the full rate for the entire period of their stay. Now the contention of the Bank is that there is no reason why an exception should be made in their favour and that the sliding scale should be made applicable to them also. But it appears from the Desai Award (RBI) that this exception gives effect to the stand taken by the Bank before the said Tribunal (*vide* para. 5:31). It may be that in view of the uncertainty about the duration of the halt on such occasions, the Bank has not applied the principle of the sliding scale. In that view, it is really not an exception. On the materials placed before me, no ground has been made out for modification of the present rule.

8.40. It remains to add that the rules relating to the Halting Allowance of trainees in zonal training centres are applied only to employees of the Bank who are deputed for training. New recruits who are straightaway deputed for training have not been treated as employees for the purpose of this rule and are paid a monthly stipend of Rs. 150. There will be no change in the rule so far as they are concerned.

(2) *Out-of-pocket expenses when the journey does not involve night stay:*

8.41. When an employee is put on duty outside the Bank but within the limits of the municipality in which the Bank is functioning, he is only paid the expenses of conveyance by bus or taxi. Where such duty has to be performed outside the municipal limits and that requires overnight stay, he is given Halting Allowance in addition to the expenses. But where no night stay is involved, he is paid, in addition to travelling expenses, an allowance at half the rate of halting allow-

ance, subject to certain conditions. Normally, the maximum period for which this allowance is admissible in a month.

8.42. In Central Government service, where the duty has to be performed within a radius of 8 kilometers from the office, the Government servant is paid only the conveyance charges. But where the place of duty is outside a radius of 8 kilometers from his office, he is given also full daily allowance; where, however, the duty is at a place beyond 8 kilometers but in a contiguous area, such as a suburban municipality or a cantonment area he is paid in addition to conveyance charges, half the daily allowance.

8.43. Now the demand of the Association is that even when the employee is put on duty within the municipal limits, such as on remittance duty to agency banks or for inspection of commercial banks or co-operative societies, he should be paid in addition to the conveyance charges half the halting allowance for a day. The Organisation wants that in all cases when the employee has to do work out side the office, he should be paid half the Halting Allowance, or Rs. 4 per diem, whichever is less. The Bank, on the other hand, has asked that the distinction made in the existing rules between a place within the municipal limits of the Centre where the Bank functions and one outside thereto operates unfairly, as when the place is within the limits of two contiguous municipalities as for example, Delhi, Hyderabad and Bangalore and that it would be more convenient to adopt the rule observed in Government service and provide that where the employee has to discharge his duties within 8 kilometers of his office, he should be paid only conveyance charges but where that duty is performed beyond a radius of 8 kilometers, he should, in addition, be paid half the daily allowance per diem. Exhibit B-157 has been filed for elucidating this position.

3.44. In my opinion, the rule in Government service is both convenient and equitable. That would also substantially satisfy the claims of the unions that half the daily Halting Allowance should be paid for work within the municipal limits. In modification of the existing rules, therefore, I direct that where the employee is put on duty at a point 8 kilometers from his office, he should be paid in addition to his conveyance charges, half the Halting Allowance per diem. Where the place at which the duty has to be performed by an employee is within a distance of 8 kilometers from the place of residence of the employee and he is directed to go there direct from his residence and he is not required to attend office that day, he will be entitled only to the conveyance charges even though the place of work is beyond the radius of 8 kilometers from his office.

8.45. One of the conditions on which an employee posted on duty outside the municipality is entitled to Halting Allowance is that he should have been on duty for the full period of the normal business hours of the Bank. If the period falls short of it, he is entitled only to his conveyance charges. Under the Bipartite Settlement, the employee would be entitled to half the daily Halting Allowance whether the duty keeps him engaged for the full period or less. The demand of the Association is that the employee should be entitled as in the commercial banks, to half the daily Halting Allowance whether his duty keeps him engaged for the full period or less. In Government service, the employee becomes eligible for the Halting Allowance when once he is on duty outside the radius of 8 kilometers without regard to the period for which he was on duty. Modifying the existing rule in the Bank in this respect so as to conform to that under the Bipartite Settlement, I direct that if the employee goes on duty to a place beyond 8 kilometres, he will be entitled to half the daily Halting Allowance, irrespective of the number of hours of his actual work.

8.46. Under the Bipartite Settlement, if the employee is on duty for a period in excess of the normal working hours of the bank, he is given the full Halting Allowance per diem. In the Bank he is paid overtime allowance for the extra hours of work. Now the demand of the Association is that in such cases the employee should be paid, as under the Bipartite Settlement, not overtime allowance but the full Halting Allowance for the day. Having regard to the fact that the rule as to out-of-pocket expenses is applicable only when there is no night stay, it would be more appropriate to grant overtime allowance than giving Halting Allowance at a higher rate. But if the halting involves overnight stay, then, of course, the employee should be paid not half of the Halting Allowance plus charges but full Halting Allowance.

(3) *Charges payable when the employee is on medical leave while at the out-station:*

8.47. Then there is a demand relating to payment of Halting Allowance when an employee on tour takes leave, other than casual leave, on medical grounds. Under the rules as they stand, an employee is entitled to this allowance only when he takes casual leave on medical grounds. The demand of the Association is that even if ordinary leave is availed of on medical grounds, when the employee is on tour, Halting Allowance should be admissible. The Bank contests this claim. The rule is that a person would be entitled to Halting Allowance only when he is on duty and a person on leave cannot be said to be on duty. An exception, however, has been made to this rule and that is, when the employee is on casual leave, which has been duly sanctioned, he is deemed to be on duty. But on this rule, a further limitation has been imposed that Halting Allowance would be admissible only when casual leave is taken on medical grounds. Now the question is whether this rule should be enlarged so as to admit the claim in all kinds of leave on medical grounds. Under the Government rules, no Halting Allowance is permissible when the Government servant is on leave and it makes no difference that he is on casual leave on medical grounds. In the commercial banks, there is a general provision that it is only when an employee is on duty he is entitled to Halting Allowance but there is a further provision that a person on casual leave shall be deemed to be on duty. Therefore, neither under the Government rules, nor under the Bipartite Settlement, is a person who is on leave, other than casual leave, deemed to be on duty or entitled to Halting Allowance. The demand of the Association goes beyond what has been allowed in Government service or by the commercial banks and should, in my opinion, be rejected.

(4) *Miscellaneous demands:*

8.48. There is a demand relating to employees put on remittance duty. When the Bank sends remittances by train or steamer, it puts an employee in charge of it. I often happens that there is an interval of time between the closing of the office hours of the Bank and the departure of the train. During this intervening period also, it is the duty of the employee to be in charge of the remittance The present practice of the Bank is to treat the remittance as having commenced at the closing of its business hours, and to reckon the day for the grant of Halting Allowance from that point of time. Now the demand of the Association is that for this intervening period the employee should be given overtime, and not Halting Allowance.

8.49. Under the rules, a 'day' for the purpose of Halting Allowance means the period of 24 hours commencing from the time at which the employee leaves his headquarters. Strictly speaking, the intervening period may not be covered by this definition. But it sounds illogical to grant allowance for one segment of the work on one basis, and for another segment of the same work on another basis. And it will not be unduly straining the language of the provision to hold that the employee "leaves the office at the headquarters", when he is seized of the business on which he leaves the headquarters from the time the office closes. The position is rather peculiar and the practice followed in the Bank, of training the 'day' for the purpose of Halting Allowance, in such cases, as commencing from the transport of the remittance to the station at the end of the office hours, appears to be reasonable and it should not be disturbed.

8.50. Lastly, there is the demand that the employees who go on remittance duty should be given a rest of 24 hours after the journey is completed at either ends. The Bank states that the practice is that if the employee returns from the out-station in the forenoon he is allowed to attend office, after finishing his launch; but that if he returns in the afternoon, he is required to attend office on that day. I am of the opinion that this is not a matter on which any further direction need be given.

III. *Officiating Allowance:*

8.51. When an employee of the Bank is put on duty temporarily in a higher post, he is paid an Officiating Pay. This takes the form of a special pay when the grades are different but the scale of wages is the same. No question arises with reference to this class of cases. But where the scales are different, there are disputes as to the quantum of the Officiating Pay and as to the period of time for which the employee should officiate before he becomes eligible for it.

8.52. Under the present rules, when an employee is promoted to officiate in a higher post the basis on which the Officiating Pay is fixed is this: To the Substantive Pay to which the employee is entitled in his permanent post one increment is added and then he is fixed in the higher scale at the stage next above the amount fixed as aforesaid. Where he is drawing pay at the maximum of the scale of the lower post, he is fixed at the stage in the higher scale next above the maximum in the lower scale. The difference between the pay which the employee was getting in the previous post and the pay to which he would be entitled under the fixation is the Officiating Pay. An employee would become entitled to Officiating Pay only when he has officiated continuously for a minimum period of 15 days.

8.53. The demands of the unions relate mainly to two matters. On the quantum of the Officiating Pay, the Association demands that in fixing the stage in the higher scale, two increments and not merely one as at present should be added to the pay which the employee is receiving in the lower scale, and that this should be so even when the maximum in the lower scale has been reached. The Federation has asked that the employee who is put on duty on a higher cadre post should be paid an Officiating Allowance equal to 5 per cent. of his pay per month. On the question as to the minimum period for which the employee must officiate before he becomes entitled to the Allowance, the Association demands that it should be fixed at 10 days while according to the Federation, it ought to be a week. The Organisation is for doing away altogether with the requirement of a minimum period as a condition for payment of Officiating Pay. There is also a dispute as to the mode of calculating the period when Sundays or holidays intervene.

8.54. The Bank opposes the demands. It has filed Exhibit B-95 showing the comparative position in 'A' Class banks and Central Government, and contends that the quantum of Officiating Pay admissible under the rules in the Bank compares favourably with what is granted by the Government or the commercial banks. It also maintains that the rule prescribing a minimum number of days of Officiating Service for eligibility is reasonable.

8.55. The questions thus raised have been the subject matter of adjudications by several tribunals. After discussing both the questions as to the quantum of Officiating Pay to be allowed and the period of acting service required for its eligibility, the Sen Tribunal directed "that where an employee acts in a higher post for a period longer than 15 days he shall be paid an Officiating Allowance calculated at the rate of 50 per cent. of the difference between his own basic pay and that of the person for whom he officiates, or at 20 per cent. of his own basic pay, whichever is lower" (page 92 para. 228). The questions were again agitated before the Sastry Tribunal, which, after observing that it was "but proper to pay additional remuneration for work in a higher post" but that "it was necessary to set a time limit" (page 53, para. 178) issued directions on the same lines as the Sen Tribunal. In the appeal filed by the employees against the Award of the Sastry Tribunal, the contention was strongly urged that there should be no limit to the period of time for which an employee should officiate before he becomes eligible for Officiating Pay. In rejecting this, the Labour Appellate Tribunal observed: "We consider that the limit of 15 days has been properly fixed by the Sastry Tribunal. A person who officiates for a short time does little more than perform the routine duties of the post; and it would neither be fair to the banks nor to the benefit of the employees to deprive them of the experience to be gained by such officiating work by insisting that for every officiating period the banks must pay a special allowance, however short that period may be" (page 89-90, para. 158). The Tribunal then proceeded to make certain modifications in the quantum of the Officiating Pay as awarded by the Sastry Tribunal. The Desai Tribunal, before which the questions were agitated again in the commercial banks reference, held that before an employee could claim this allowance, he should have officiated "for a period exceeding 15 days", and proceeded to give directions as to how it is to be calculated (page 185, para. 6.56). Under the Bipartite Settlement the minimum period has been reduced from 15 to 10 days. The question of Officiating Allowance was the subject of a specific reference to the Desai Tribunal in the Reserve Bank reference and the present position is the result of the directions given therein.

8.56. The Government rules on this subject are based on the recommendations of the Second Pay Commission. They provide that when a Government servant is promoted or appointed on a substantive, temporary or officiating capacity to a higher post, "his initial pay in the time scale of the higher post shall be

fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment at the stage at which such pay has accrued" (F.R. 22-C).

8.57. The demands of the unions can now be examined in the light of the above provisions. On the question as to the quantum of the Officiating Pay the main contention urged on behalf of the Association is that for fixing the appropriate stage in the higher pay scale, not one but two increments should be added to the pay drawn by the employee in the lower scale. But it will be seen that the rules in force in Government service provide for adding only one increment. It is on the basis of this rule that the Desai Award in the Reserve Bank reference directed that the increment be added. The Awards in Commercial banks references proceed on different lines and afford no guidance on this question. No convincing ground has been advanced for accepting this demand and I must reject it. The demand of the Federation for grant of 5 per cent of the pay of the employee, as Officiating Pay, is on the lines of the provisions of the commercial banks. There is no reason why the basis on which the Reserve Bank rules are based should now be thrown overboard and a new one substituted. No such demand has been made by the Association. I do not see any reason to accept this.

8.58. Then there is the question as to the minimum period of service in the higher post required for eligibility to the Officiating Pay. In Central Government service the question of officiation would normally arise only when the vacancy is for a period exceeding two months. Where the period is two months or less, the person who acts in that vacancy is not classed as one officiating in that vacancy and the question of payment of Officiating Pay does not arise. This was disapproved by the First Pay Commission, but, as appears from Exhibit B-95, this practice has continued right through. However, I do not propose to rely on this. As regards commercial banks, the necessity for prescribing a minimum period has been laid down successively by the Sen Tribunal, by the Sastry Tribunal, by the Labour Appellate Tribunal and by the Desai Tribunal. Agreeing with those Tribunals, I reject the contention of the Organisaion that there should be no minimum qualifying period. Then there is the question as to the number of days which should be prescribed as the minimum. Fifteen days have been prescribed in all the commercial bank awards. It is only in the Bipartite Settlement that the period has been reduced to ten days. The Bank maintains that fifteen days is a reasonable period and should not be altered. As between the provisions in the awards relating to commercial banks and the one in the Bipartite Settlement, the former are entitled to greater weight as they are adjudications of high powered judicial Tribunals. The present provision as to the minimum number of days will stand.

8.59. It remains to deal with one other question raised by the Organisation It might happen that an employee acts in a number of vacancies following one another in succession. If between two such vacancies, a Sunday or a public holiday intervenes, are they to be reckoned as constituting one continuous period? The demand of the Organisation is that they should be. The Bank does not agree. The point in dispute can best be brought out by an illustration: 'A' takes leave from the 1st to 6th of February (Monday to Saturday). 'X' acts in this vacancy. 'B' takes leave from 8th to 13th of February, 'X' again acts in this vacancy. 'C' goes on leave from 15th to 17th of February. 'X' acts in this vacancy also. Can it be said that 'X' has officiated for a continuous period of 17 day? The Organisation wants this question to be answered in the affirmative, and the Bank in the negative. Now the result of the two breaks in the vacancies is that there has been a reversion of 'X' to the lower post on the 7th and 14th. Though the total period of his officiating service comes to 15 days, there has been no continuous period of 15 days as required by the rule. The rule in consequence will be inapplicable, and on the reason of it, therefore, the stand taken by the Bank seems to be correct. It will no doubt be equitable to make some provision for payment of extra pay for the days during which the employee has officiated. Indeed it has been represented on behalf of the Bank that if an employee does officiate for the minimum period excluding the intervening holidays which operate as breaks in officiating service, he is paid Officiating Pay even though strictly speaking there is no continuity of service. This is certainly equitable and commerely as regards Sundays and public holidays but even as regards an intervening pected in this situation. The Organisation has put forward this contention not merely as regards Sundays and public holidays but even as regards an intervening Saturday. I am unable to accept this. In the result, no change is required in the position as it now exists.

CHAPTER IX

Hill and Fuel Allowances for Staff at Srinagar

I. *Hill Allowance:*

9.1. The demand under this item is limited to the staff working at Srinagar.

9.2. It has long been the practice of the Government and of the banks to grant an allowance called Hill Allowance to cover the increased cost of living at hill stations. It is not in controversy that a proper allowance should be given under this head. The dispute is only as to what the proper amount is. The amount now awarded by the Bank as Hill Allowance is 9 per cent. of pay subject to a minimum of Rs. 10 per mensem. The demand of the Association is that it should be raised to 10 per cent. of 'pay' with a minimum of Rs. 20 per mensem. The Federation also asks for 10 per cent. of the salary but puts the minimum at Rs. 25 per mensem. The Organisation has consolidated the demand for both Hill Allowance and Fuel Allowance and wants 20 per cent. of pay with a minimum of Rs. 45 per mensem.

9.3. The question is whether the allowance now granted by the Bank under this head calls for revision. Taking up first the Government scale of allowance at Srinagar, it varies with the pay of the employee. It is 10 per cent. of pay subject to a minimum of Rs. 7.50 and a maximum of Rs. 12.50 per mensem upto a pay range of Rs. 150 per mensem; at 8 per cent. of pay subject to a minimum of Rs. 12·50 per mensem in the pay range between Rs. 150 to Rs. 750 per mensem and where the pay is above Rs. 750 per mensem, the amount by which it falls short of Rs. 810 per mensem.

9.4. This question has been dealt with by several tribunals. In the awards of the commercial banks the quantum of this allowance varies with the height of the hill station or the town where the office is located. Srinagar is situated at a height of about 5,200 ft. above sea level and it will be material to see what allowance was granted to the employees working in hill stations of that height. The Sen Tribunal awarded an allowance at the rate of 8-1/3 per cent. of 'pay' subject to a minimum of Rs. 6 per mensem and this was also what was granted by the Sastry Tribunal and by the Desai Tribunal (Commercial Banks). Under the Bipartite Settlement the allowance has been fixed at 7 per cent. of the pay with a minimum of Rs. 10 per mensem.

9.5. It will be seen from the foregoing that the Hill Allowance given by the Bank compares favourably with what is given either by the Government or by the commercial banks. But in view of the increased cost of living since the date of the last Award, I think it would be reasonable to award 10 per cent. of the monthly 'pay' instead of 9 per cent. thereof as at present. No modification is required as regards the other conditions. 'Pay' for this purpose would mean basic pay, officiating pay, special pay and personal pay, if any.

9.6. It should be mentioned in this connection that since 1965 the Bank has been shifting, during the winter season, its office at Srinagar to Jammu which is not a hill station. Now a claim has been made that Hill Allowance should be granted throughout the year even though the office is shifted to Jammu which is not a hill station. It would be a contradiction in terms to award hill allowance when the office functions at a non-hill station.

II. *Fuel Allowance:*

9.7. This is an allowance intended to cover the increased expenditure on account of fuel which a stay at a hill station must entails. This has been allowed by the banks which have branches at hill stations for the winter months November to March. For the other months this allowance is not paid. The question of fuel allowance, however, cannot arise so long as the Bank follows the present practice of shifting its office to Jammu during the winter months. It has been argued for the Association that even when the office is so shifted, allowance must be granted under this head as the employers must continue to maintain their establishments at Srinagar also. I do not see much substance in this contention, and am unable to accept it.

9.8. There has also been a controversy between the parties as to the proper amount that should be allowed as Fuel Allowance. The question might arise if the Srinagar office is not shifted to Jammu and so I am dealing with it. It may first be mentioned that no Fuel Allowance is granted by the Central Government at Srinagar. Comparing next the allowance granted by commercial banks, in Sen Award it is given at 8-1/3 per cent. of 'pay' with a minimum of Rs. 6 and a

maximum of Rs. 20 per mensem. That is also the allowance granted under the Sastry Award. In the Award of the commercial banks, the Desai Tribunal granted 6 per cent. of 'pay' as Fuel Allowance with a minimum of Rs. 6 and a maximum of Rs. 20 per mensem. Under the Bipartite Settlement, the allowance is fixed at 7 per cent of the monthly pay with a minimum of Rs. 10 per mensem and a maximum of Rs. 27 per mensem. As against this, the Bank was giving by way of Fuel Allowance 9 per cent. of the monthly pay with a minimum of Rs. 10 per mensem and a maximum of Rs. 20 per mensem. In my opinion this compares favourably with what has been awarded by the Tribunals and even the Bipartite Settlement. But bringing it in line with my decision on Hill Allowance, I award 10 per cent. of the monthly 'pay' instead of nine as at present. The meaning of 'pay' will be the same for this purpose as for the Hill Allowance.

CHAPTER X

Emergency Allowance for Staff at Gauhati

10.1. This allowance is claimed for the staff working at Gauhati branch on the ground that owing to declaration of Emergency and the en-campment of the military in the area there has been a steep rise in the price of consumer commodities, and that compensatory payments must be made for meeting the higher cost of living. All the unions have claimed an allowance of 10 per cent. of 'pay' including special pay as Emergency Allowance. The Association has further claimed that there should be a minimum of Rs. 20 per mensem and the Organisation has asked for a minimum of Rs. 25 per mensem. The Bank denies that there has been any abnormal rise in the price of commodities. It further contends that the emoluments given by it to the staff at Gauhati are higher than what the employees in commercial banks receive and that there is no ground for granting any allowance under this head.

10.2. Dealing first with the question of the rise in price, the Association has given, in paragraph 303 of its statement, the working class consumer price index figures, for Gauhati for the period 1960-61 to December, 1966 and that shows a rise from 104 in 1960-61 to 168 in December 1966. This rise, it is contended, justifies the grant of a special allowance. But what has to be established is not merely that the index of consumer goods shows a rise in Gauhati but that such rise is more than the rise in the All-India Index. It is only then that a claim for special allowance can be justified. But far from that being the case, it is the all-India working class index for consumer goods that shows a greater rise than the index for Gauhati. For the same period the all-India working class index shows a rise from 124 to 197 (vide the Reserve Bank of India Bulletin for September 1967 at page 1260, and exhibit A-136). Turning next to the Middle Class Index, the position is practically the same. Though for the years 1961 to 1964 the index for Gauhati is higher than the all-India index, from 1964 onwards the all-India index stands definitely higher than the Gauhati index and it is this index that is material for the years with which this dispute is concerned. Thus, whether we have regard to the working class index or the middle class index, the Gauhati index cannot be said to be higher than the all-India index and therefore the claim for a special allowance cannot be sustained on this ground.

10.3. It is then said that certain commercial banks are giving such an allowance and exhibit A-107 is filed in support of this contention. The Bank has filed exhibit B-113 in answer thereto. It appears that out of the nine 'A' Class banks which have branches in Gauhati, four have sanctioned Emergency Allowance. It is said for the Bank that one of them, viz. the United Commercial Bank has since discontinued it. But apart from this, the Bank contends that unlike the commercial banks, it is paying House Rent Allowance at Gauhati. It is, however, pointed out for the unions that the Life Insurance Corporation of India and the Indian Oil Corporation are paying House Rent Allowance to their staff at Gauhati. The Bipartite Settlement does not provide for payment of any House Rent Allowance at Gauhati. The Central Government does not pay any Emergency Allowance to its staff at Gauhati, nor does any public sector undertaking. To sum up, some 'A' Class banks are paying Emergency Allowance. Some public sector undertakings pay a House Rent Allowance. But no bank and no public sector undertaking pays both Emergency Allowance and House Rent Allowance. Under the circumstances the claim for payment of an Emergency Allowance, in addition to the House Rent Allowance, cannot be allowed.

CHAPTER XI

Hours of work, and overtime.

11.1. The points arising for decision under this head are (1) hours of work, (2) holidays (3) staggering, and (4) compensation for overtime work.

(1) *Hours of Work*:

11. 2. The actual hours of work for wholetime workmen employees in Classes II and III in the Bank, at present, are 6-1/2 hours on week days exclusive of lunch recess and 3-1/2 hours on Saturdays with no lunch recess, in all 36 hours per week. These hours were fixed in 1950 in accordance with the decision in the Sen Award for commercial banks. The Sastry Tribunal raised the hours of work on Saturdays from 3-1/2 to 4 hours in the commercial banks but the Reserve Bank has not altered the hours as fixed in 1950. The Association has not asked for any change in the existing hours of work. The Federation wants that the hours of work should be reduced to 6 hours on week days. The Organisation demands that the working hours should be raised to 7 on the week days, that there should be no work on Saturdays and that even working days there should be a cushioning of half an hour, that is, if the employee finishes his work half an hour earlier, he should be entitled to leave the office. In its statement the Bank has pleaded that the hours of work on week days do not require a change and that on Saturdays; in tune with the commercial banks, the working hours should be 4 instead of 3-1/2. I see no grounds for making any alteration in the hours of work on week days, as settled in Sen Award and followed by all the banks ever since. As for the hours of work on Saturdays, the Sastry Tribunal was of the opinion that for the proper carrying out of the clearing work and in the interests of the public, the period of 3-1/2 hours, fixed in the Sen Award should be raised to 4. Before me. it has been argued on behalf of the Bank that its hours of work on Saturdays also should conform to those of the commercial banks. But no suggestion has been made that either the clearing work has suffered or that the public has been inconvenienced by the Bank's working hours on Saturdays remaining as 3-1/2. On the materials before me, I do not find any sufficient reason to disturb the state of affairs which had gone on all these years.

(2) *Holidays*:

11.3. The dispute relating to the holidays is really one as regards the admissibility of the claim for overtime work on days declared as holidays. If it is a holiday for the Bank, an employee working on that day would be entitled to overtime allowance. But if it is not, he will not be. Now, the practice in the Bank is to declare at the very commencement of the year certain days as holidays. No dispute arises with reference to them. Apart from this, in the course of the year, other days are also declared as holidays under the Negotiable Instruments Act, 1881. Is the Bank bound to declare them also as its holidays? In exhibit B-128 the Bank has stated that whether they should be so declared or not must depend on the purpose for which the holidays are declared and that it is the Bank that must have the discretion to declare wheher such holidays should be also holidays fer the Bank. But the unions contend that all these days are treated by commercial banks as holidays and the Reserve Bank also should follow the same practice. In my opinion, it is desirable that there should be uniformity of practice amongst all the banks in this respect. Holidays of this kind must be occasional and ultimately the question is one of merely paying overtime allowance if an employee works on those days. My direction therefore is that even holidays declared as such under the Negotiable Instruments Act, 1881 in the course of the year, should be treated as holidays for the Reserve Bank. It should, however, be noted that holidays declared for half-yearly and yearly closing of accounts should be working days for the Bank. That at present is the rule both in the Reserve Bank and in the commercial banks and no question has been raised about it before me.

(3) *Staggering of duties*:

11.4. The hours of work for an employee in the Bank on week days are, as already stated, 6-1/2 hours. Normally these hours of work will be continuous subject to luch recess. But there are certain types of work which cannot be performed continuously and must be attended to as and when they arise and persons who are put on such duty on such work can perform it only when the occasion for it arises. In such cases the concept of work for a continuous period of 6-1/2 hours a day, with a lunch interval, becomes unworkable. All that the employee can insist is that the work as a whole should not exceed 6-1/2 hours a day. The Bank has got to regulate the periods when work of this nature has to be done and it is this that is called staggering. It is incidental to all banking business. The Organisation has made certain demands with reference to staggering, which must be noticed. It claims that there should be no staggering of duties for posts in respect of which there is heavy work in the beginning and at the close of working hours, and that further the actual timings of work and of lunch period

should be fixed by the Bank in consultation with the unions so as to achieve staggering of hours. The Bank resists this demand. It contends that the hours of staggering must depend on the nature of the business, that the Bank is the exclusive authority on the subject and that there should be no question of consulting the unions. I am in agreement with this contention. The staggering must necessarily depend on the exigencies of the work as they develop, and the Bank should be the only authority which can come to a decision on the matter and that must be left to its discretion. I do not see therefore any sufficient ground for introducing any change in the present practice.

(4) *Compensation for Overtime work:*

11.5. Several questions have been raised in relation to this topic and they will now be considered. What is the rate at which overtime allowance should be granted? At present, Class III employees are given overtime allowance at one and a half times the hourly 'pay'. Every month is deemed to consist of 150 working hours and so the allowance payable on this account per hour is 1/150th of the monthly 'pay'. Where work is done on a quota basis the allowance is paid on the basis of one and a half times the daily 'pay' worked out with reference to the particular month during which overtime work is done. There is at present no ceiling as regards the allowance payable to the employees in Class III. But prior to the Desai Award (RBI) the maximum overtime allowance that was payable to an employee was Rs. 20/- per diem and Rs. 200/- per month. The Desai Award (RBI) has removed the ceilings as regards Class III employees but it is still in operation as regards Class II employees. Now coming to the demands of the unions under this head, the Association wants that the overtime allowance should be 150 per cent, as at present upto the first six quarter hours of overtime work and that thereafter it should be at 200 per cent. It also demands that overtime allowance for work on Sundays and holidays should be at 200 per cent. The Organisation demands that the overtime allowance be uniformly at the rate of 170 per cent, on all days except Sundays and holidays for which allowance at 200 per cent, is claimed. The Federation asks for an allowance at the rate of 150 per cent of the total emoluments for the first two quarter-hours of the overtime work and thereafter at 200 per cent. and for overtime work on Sundays and holidays 200 per cent of the pay and allowances is claimed.

11.6. On behalf of the Bank it is contended that the allowance granted by it compares favourably with what is given by the Central Government or by the commercial banks. Under the Rules of the Central Government no allowance is paid for work beyond office hours where it does not exceed one hour. Beyond that the amount varies with the emoluments of the employee and the number of hours of overtime work. An employee whose emoluments range between Rs. 130/- and Rs. 150/- gets Rs. 0.75 per hour for the two hours following the cushioning period of one hour, Re. 0.95 per hour for the next two hours and Rs. 1.10 for every hour thereafter. An employee whose emoluments range between Rs. 600/- and Rs. 650 per mensem gets Rs. 3.85 per hour for two hours following the cushioning period, Rs. 4.80 per hour for the next two hours and Rs. 5.75 per hour thereafter. For overtime work done on Sundays and holidays, an employee in the pay range between Rs. 130/- and Rs. 150/- gets Rs. 1.10 per hour and an employee in the pay range between Rs. 600/- and Rs. 650/- gets Rs. 5.75 per hour.

11.7. Turning next to the commercial banks, it is common ground that under the Desai Award the terms of the overtime allowance in the Reserve Bank compared favourably with those in the commercial banks. But the Bipartite Settlement has modified those terms and it is said that these terms are more favourable than those of the Reserve Bank. Under the said Settlement, the employee is to get overtime allowance, for work done on week days and Saturdays at 100 per cent of the hourly emoluments for the first two quarter hours, at 170 per cent for the next four quarter hours, and thereafter at 200 per cent. On Sundays and holidays the overtime allowance is calculated at 200 per cent of the hourly emoluments.

11.8. It is indisputable that the overtime allowance granted by the Bank is more than what is given to an employee in Central Government service. As regards the Bipartite Settlement, the overtime allowance granted for Sundays and holidays is decidedly more than what is given in the Reserve Bank. As regards the week days and Saturdays the position is not so clear. Upto the limit of the hour the overtime allowance given in the Reserve Bank is more than what is given in the Bipartite Settlement. Thereafter the scale gets tilted in favour of the employees in the commercial banks. But even then the difference is no much. In my opinion the present rate of allowance for overtime work on week days and Saturdays, in the Reserve Bank is on the whole reasonable just, and simple and

easy of calculation. But as regards the allowance for overtime work on Sundays and holidays, it should, in my opinion be at 200 per cent of hourly emoluments as under the Bipartite Settlement. The expression 'pay' and the mode of determining the hourly emoluments shall continue as under the Desai Award.

11.9. Then there is the demand relating to what is known as cushioning period. The nature of banking business is such that a work which had been taken up would have to be carried on without a break up to a point and in such a case if it remains unfinished at the end of the normal working hours, the employee cannot lay down his pen at the stroke of the hour but must work for some more time for finishing it. The period for which work is done beyond the normal office hours is called the cushioning period. One of the demands made on behalf of the employees is that there should be no cushioning period at all. But as already stated this is recognised in Government service, the cushioning period being one hour. On this question the Second Pay Commission has laid down that in the case of the office staff this period should be 45 minutes beyond the prescribed hours. The commercial banks have all along worked on the principle that there should be a cushioning period. The Sastry Tribunal accepted half an hour as cushioning period and affirming this decision the Labour Appellate Tribunal considered that the work done during the first half an hour after the normal working hours was part of the normal work of the employee and was covered by his basic pay and allowances. The principle of the cushioning period has been recognised in bank awards and in the Bipartite Settlement. It is also not unknown to the banking practice in England. Even in industrial dispute in commercial concerns the tribunals have recognised the principle of providing for a cushioning period. [*See* the decisions in Associated Cement Company's case (1951 II L.L.J. 387 at 400) and the Caltex case (1952 II L.L.J. 183 at 190)]. Provision for the cushioning period must therefore be held to be one of the normal features of the banking business. The only question then is as to the period of cushioning. In Government service on the one hand, it is one hour, and in the Bipartite Settlement, on the other hand, it is fifteen minutes. In recognising half an hour as the cushioning period, the Bank holds the balance between the two. Having carefully considered the matter, I am of the opinion that there are not sufficient grounds to disturb the rule now in operation in this matter.

11.10. A question has been raised as to how the period of overtime is to be calculated when it falls short of an hour. At present overtime is reckoned in blocks of half an hour. In the case of employees in Class III, however, when the work extends to fifteen minutes or more but falls short of half an hour, it is treated as half an hour. But if it is less than fifteen minutes, it does not enter into the reckoning. In commercial banks the period is reckoned in blocks of fifteen minutes and even when the work falls short of fifteen minutes, it is treated as overtime work for quarter of an hour. In Government service, work upto half an hour beyond the cushioning period is reckoned as half an hour and every period upto half an hour thereafter is likewise reckoned as half an hour. The question is whether the present mode of calculating overtime by the Bank should be changed. In accordance with the practice in the commercial banks I direct that overtime periods be reckoned in bolcks of fifteen minutes and work done for any period less than fifteen minutes shall count for a quarter-hour.

11.11. It sometimes happens that when an employee commits a mistake the process of detecting that mistake and setting it right leads to delay in closing the section in which he works. In such cases there is overtime work not merely for the employee who commits the mistake but also for the other employees in the section who form, so to say, a chain of workers. These other employees are paid overtime allowance and there is no dispute about it. But the employee who committed the mistake is himself not granted any overtime, allowance, and the demand now made is that he should also be given overtime allowance. Both in the Sastry Award and in the Decision of the Labour Appellate Tribunal, it was held that such an employee was not entitled to overtime allowance. This is an equitable rule and it has been observed by the commercial banks. There is no reason why the Reserve Bank should now depart from this rule.

11.12. The organisation claims that overtime allowance should be granted when an employee travels on duty on a Sunday or a holiday. Under the rules of the Bank the period for which he is paid a halting allowance includes also the period of the journey. The demand is not that for this period overtime allowance should be granted instead of the halting allowance, and therefore to accept the demand of the Organisation would result in double payment and that cannot be

granted. Even if the demand had been made for overtime allowance in lieu of halting allowance, I should reject it.

11.13. A claim has also been made that overtime allowance should be granted to Clerks engaged in remittance duty for the period between the closure of the office and the time of the departure from the station and not merely halting allowance, as is now the practice. I have already dealt with this question under item No. 6.

11.14. There is a class of employees in the Bank whose work on the basis of quota system; that is to say, certain specific works are allotted to them for being completed within the day. If this work is finished earlier and additional quota is given to them for work, are they entitled to overtime allowance in respect of that work? The Bank does not allow any overtime allowance for this work unless it goes beyond the office hours. Now, the demand is that the employee should be granted overtime allowance for this additional work even when it is done during office hours. The Bank opposes this demand and contends that this would convert the hourly rate by the job system to one of piece-rate. This contention is well founded. Though the quota system might smack at the first blush of piece wages, it is in fact not so. The employment is for six and a half hours on week days and three and a half hours on Saturdays and the quota is fixed on an assessment of the nature of the job-work for that period. Therefore work done within the office hours beyond the quota fixed cannot be regarded as additional piece-work and no additional allowance could be granted therefor.

11.15. The Federation claims payment of overtime allowance when it becomes necessary for the employees to remain in the office beyond the office hours on account of mistake or break-down of machines ("Power Samas machines"). It appears that in practice overtime allowance is granted by the Bank in such cases and it is clearly just. It is necessary that this practice should be impressed with the character of a legal obligation. I, therefore, direct that the employee shall, in such cases, be granted overtime allowance.

11.16. The next question is as to the overtime allowance payable with reference to the Clerks in the Telegram Section. These Clerks have duties to perform at odd hours of day and night and that is done by turns. For the overtime work which they do, they are now paid by the Bank a fixed monthly allowance. Now the demand is that they should be paid overtime allowance on an hourly basis. The contention of the Bank is that where the work is of such a character that the employees put on them have normally to be on duty outside the office hours, it should have the discretion to give them either (1) compensatory offs, or (2) overtime allowance on hourly basis, or (3) a fixed payment on monthly basis. Both the First and the Second Pay Commissions which considered the form of compensation to be given for overtime work recognised a compensatory off as an alternative to overtime payment, though the Second Pay Commission has expressed its preference of the latter. There can, in my opinion, be no objection to such and option being recognised. As to whether money compensation should be assessed on an hourly basis or whether it should be a fixed amount for a period, does not raise any question of principle; it is in reality one as to the quantum of allowance. On principle there can be no objection to the grant of a fixed monthly allowance provided it is reasonable. If the rate of allowance per hour can be increased the fixed monthly allowance can likewise be increased. My decision is that option must be given to the Bank to award compensation in any one of the three modes mentioned above in this class of cases, and that there is accordingly no ground for making any change in the manner of awarding compensation in the Telegram Section.

11.17. The point has also been raised as to the mode of compensation to be given to the employees of the Bank who are put on Mint duties. The Mint has raised its working hours to 60 per week, as a temporary measure and the employees of the Bank who are deputed to the Mint have also to work beyond the normal office hours and they are now being paid overtime allowance on an hourly basis. The Bank claims that it should have the option to give them compensatory offs at one day for every 6-1/2 hours of extra duty. For the reasons already given the Bank will have the option either to give them compensatory off or pay them overtime allowance on an hourly basis.

11.18. Then there is a claim of the Field Staff for overtime allowance. It is said that they are obliged to work beyond the office hours during the time of the visit by the Officers and that this happens even on Sundays or holidays and that they should be paid overtime allowance. Exhibit B-101 contains the reply of the

Bank. It appears, therefrom that if the visit of the Officers is during working days and the staff has to work beyond office hours, they are given compensatory off, and the Bank adds that "no member of the Field Staff will be compelled to work on Sundays and holidays even during the visits of the supervising Officers without any compensation." In view of this there is no need for any special directions in this matter. It will be convenient to deal at this stage with the claim made by the Field Staff with reference to the compensatory leave due to them in the circumstances stated above. The demand is that the Field Staff should be entitled to avail themselves of this leave within a period of six months. Under the present rules, it will lapse at the end of three months. The contention of the Bank is that this was a special facility given by the Bank "with a view to economising the tours of the Field Staff to the villages and this causes less inconvenience to them" and that there is no justification for extending this period. It appears that the period as originally fixed was only one month and that it was subsequently extended to three months. No ground has been made out for increasing this period further.

11.19. Lastly, there is the question of overtime allowance for workmen in Class II category. There is at present a ceiling on the amount payable on overtime work and that is Rs. 20/- *per diem* and Rs. 200/- per month. In the pleadings there is no specific demand with reference to this matter. At the time of the argument Shri Sule contended that there was no ceiling as regards workmen in Class III and that it was desirable that there should be uniformity in the rule, in its application both to Class II and Class III employees. How the distinction arose should be mentioned. Prior to the decision of the Desai Tribunal the ceiling was uniformly applicable to all the workmen who are now before me. That Tribunal directed "that there should be no ceiling in connection with the amount payable on account of overtime work done by members of Class III staff on any day, or in any one calendar month," (*vide* para. 13.11); but as regards the categories in Class II it held; "no case is made out for giving any directions to the Bank regarding overtime payable to them and I give no directions in connection therewith, (*vide* para. 13.10). With respect, I am unable to agree with this decision Unless it is made out that there is some difference in the nature of the work of the employees in Class II and that of those in Class III, the same rules should be applicable to both of them. I accordingly direct that there should be no ceiling in the overtime allowance payable to the Class II employees and they will get overtime allowance on the same scale as Class III employees. In view of my decision, *infra*, on the question of retrospective operation, the directions with respect to overtime allowance, this Award will take effect as regards this allowance, only from the date on which this Award comes into force.

CHAPTER XII

Confirmation of temporary workmen.

12.1. This item relates to the confirmation of temporary workmen. Under the rules, as they now stand, there is no limit of time within which a temporary employee of the Bank should be confirmed. The grievance of the unions is that there is at present a large number of temporary employees in the Bank who have been in service for several years and the demand is that in the interests of justice, directions should be given to the Bank to confirm them, if they have put in service, according to the Federation and Organisation, of six months, and according to the Association, six months to one year.

12.2. The Association has filed a number of exhibits showing the number of employees in several places and the years for which they have been in service. Exhibit A-112 sets out the sanctioned strength of the employees, Permanent and Temporary and of the actual staff, at Hyderabad. This shows that the number of Permanent employees is less than the sanctioned strength while the number of Temporary employees exceeds the sanctioned strength. Exhibit A-113 is a statement showing the number of Temporary employees in Class III in the various offices at different centres as on 31st of December 1966. Exhibit A-116 gives the actual number of Temporary employees in Hyderabad, Patna, Calcutta and Madras and it gives also the number of years of service they have put in. Annexure IV to the Statement of Claim of the Association shows that on the 30th of September 1966 the sanctioned strength of the Permanent employees was 8,905 and that of the Temporary employees 2,202. The bank has filed exhibits B-5, B-6 and B-131 on this point. B-6 gives the sanctioned strength of the employees of various categories as on 30th December 1966, and B-131 is a statement giving the centre-wise number of Temporary employees in Class III who, as on 31st December 1966, had put in a

service of more than one but less than two years, of more than two but less than three years, and of three years and more.

12.3. The contention of the Bank is that whether an employee should be appointed temporarily or not must depend on the nature of work to be done, that if the work itself is of a temporary character, it would not be possible to create a permanent post and that whether a permanent post should be created or an employee engaged on a temporary tenure, is a matter that must be left to be decided by the Bank on a review of all the facts and circumstances and that it would be unworkable to lay down a hard and fast rule on the subject.

12.4. For a correct appreciation of the position it is necessary to have regard to the several categories of employees in a bank. Apart from the permanent employees, there are probationers and temporary employees. In the Sen Award the probationer was defined as meaning an employee who was provisionally employed to fill a permanent vacancy or post while a temporary employee was defined as one who had been appointed for a limited period for a work of an essentially temporary nature or who was employed temporarily as an additional employee in connection with a temporary increase in work of a permanent nature. The Award lays down that in the case of vacancies to permanent posts the appointment should be, in the first instance, on probation for a stated period which might be extended and that at the end of that period he should either be confirmed or discharged. The Sastry Tribunal adopted the classification made in Sen Award and further laid down that a probationer who had not been discharged within the period of probation should be deemed to have been confirmed. It will be noticed that in both these Awards the distinction was clearly maintained between persons appointed temporarily for a permanent post, that is, as probationer and a person who is appointed temporarily. While directions were given as regards the former, there was none as regards the latter.

12.5. Coming next to the Desai Awards, in the commercial banks' reference, it somewhat modified the direction in the Sastry Award as regards probationers. Dealing with temporary employees, it adopted the definition given of them, in the Sen and Sastry Awards with this further addition that it "includes an employee, other than a permanent employee, who is appointed in a temporary vacancy of a permanent workman." But it is only in the Reserve Bank's reference that the Desai Tribunal had to deal with the question of "confirmation of temporary employees on completion of six months' service" (Item No. 10 of Schedule I). Before the said Tribunal, the Association put forward its present contention that all temporary employees who had put in more than six months' service be confirmed and in rejecting this contention the said Tribunal stated as follows: "There was a fairly large number of temporary employees in the Reserve Bank some time back. The Reserve Bank has provided for a review of the position by heads of each department, by the inspection department and by the central office, with the result that the number has now been considerably reduced. In view thereof, it is not necessary to give any directions to the Bank in connection with the same. Where work is of a temporary nature it would not be reasonable to ask the Bank to create permanent posts and fill up the same. There cannot be any specific period provided after the lapse of which a temporary employee should be made permanent. The demand that the Bank should be directed to confirm all tmporary employees who have put in more than 6 months' service is unreasonable and is rejected. I may, however, observe that it is desirable that after a temporary employee has put in three years' continuous service he should, as far as possible, be absorbed in the permanent service of the Bank." (Para. 9.7).

12.6. Against the decision of the Tribunal, the Association preferred an appeal to the Supreme Court and among the questions raised therein was one relating to the confirmation of temporary employees. It was argued that a very large proportion of employees was borne as temporary employees and that it took a very long time for them to be confirmed and that it was necessary that a provision should be made for their confirmation within a time. But the Supreme Court declined to interfere, observing that the question of confirmation was one of internal management and no question of principle was involved and that the Tribunal had acted rightly in refusing to lay down a hard and fast rule.

12.7. It is not suggested that any new circumstances has arisen after the decision of the Supreme Court calling for a review of the question. In the case of temporary workmen as distinguished from probationers the decision must be left to the Bank as to when it would confirm them. I should add, however, following what was said by the Second Pay Commission that there should be periodic review of the situation by the Bank and if it becomes necessary, having regard

to the increase in work and its nature, to create more permanent posts, they should not hesitate to do so and absorb the temporary employees.

12.8. Then, I shall deal with a complaint of the Association about what is termed as a "faulty policy of confirmation." The position is thus stated in paragraph 320(ii) of its statement of claim: "Certain graduate employees who are stated to have stood first in the clerical recruitment tests for the general side, were transferred to specialised departments like Department of Banking Operations and Development and Agricultural Credit Department. As there were no vacancies of permanent posts in these departments these employees remained unconfirmed for years; in the meantime their juniors in the general side were confirmed earlier as vacancies occurred in the latter. Recently they were retransferred to the general side and placed as juniors to confirmed employees who were appointed late but confirmed earlier. This has happened at Madras." The answer of the Bank to this is that this question is outside the reference. That appears to be so. At the same time I cannot help observing that there is a measure of injustice involved in the above state of affairs. If an employee had been transferred from one Department to another, not by his choice, it is a matter for consideration by the Bank whether he should not be retransferred to the original Department before an employee who is junior to him is confirmed. This, however, is not a matter for me to decide but for the Bank to consider in the interests of justice.

12.9. A claim is made by the Field Staff that the employees belonging to this category should be confirmed at the end of one year. There is no reason why the Field Staff should be treated differently from the other employees of the Bank. I, therefore, decide that the confirmation of Field Staff recruited on a temporary basis shall be in the discretion of the Bank to be exercised with due regard to the exigencies of work.

CHAPTER XIII

Procedure for the termination of employment and taking other disciplinary action.

I. *Procedure for the termination of employment:*

13.1. Regulation 25(2)(b) of the Reserve Bank of India (Staff) Regulations, 1948 provides that the Bank may terminate the services of any employee, other than one in Class I, by giving him one month's notice or pay in lieu thereof, and that this power shall be exercised by the Manager with the prior approval of the Governor. The demand of the unions is that this power should be taken away. There is a further demand by the Federation that when action is taken under this Regulation the Bank should be required to disclose the reasons therefor, so that the employee may take appropriate action to protect himself against an order which is *mala fide* or colourable. The contention of the Bank is that the words "Procedure for the termination of employment" are controlled by the words "other disciplinary action" and that apart from such action, the question as to the validity or propriety of the power to terminate employment under Regulation 25(2)(b) is not covered by the reference. This was one of the topics referred for adjudication to the Desai Tribunal. Item 18 to Schedule I in the Reserve Bank reference was "Procedure for the termination of employment and taking other disciplinary action". The Association demanded that Regulation 25(2) aforesaid should be completely deleted. But the Bank contended that on the terms of item 18 of Schedule I the only question that was open for consideration was the termination of service by way of disciplinary action and that the further question whether the Bank should have power to terminate the services under this Rule had not been referred. In upholding this contention the said Tribunal observed: "On a plain reading of these words it is clear that the dispute must concern 'procedure'. These words do not embrace any dispute relating to the very right of the Bank to terminate employment or any dispute concerning the nature or extent of the punishment to be inflicted for different types of misconduct. The termination of employment envisaged by these words is termination of employment by way of disciplinary action. These words do not refer to any procedure for the termination of employment otherwise than by way of disciplinary action. The words "taking other disciplinary action" clearly indicate that the termination of employment that is referred to earlier is the termination of employment by way of disciplinary action". (Para. 14:5).

13.2. It will be seen that item No. 11 of the present reference is identical in terms with item No. 18 of Schedule I in the reference to Desai Tribunal. The argument on behalf of the Bank is that the scope of the present item also must be held to be the same as that of item 18 and that further this being a reference based on an arbitration agreement, what is material to consider is only what the

parties really agreed to refer under this item and that having regard to the construction put on the words of item 18 by the Desai Tribunal, it must be taken that that is what the parties intended to refer in the present arbitration. I agree with this contention. Indeed, it was stated before me, by Shri Parwana, who has signed the arbitration agreement on behalf of the Association, that he agreed to item 11 in those terms, as otherwise the Bank refused to join in the reference.

II. *Procedure for taking other disciplinary action:*

13.3. Passing on next to the procedure for taking other disciplinary action, the point that arise for decision are—(1) rules of procedure at the enquiry, (2) a second hearing on the question of punishment, (3) the Officer who is to conduct the enquiry, and (4) Provision for defending the employee.

(1) *Rules of procedure at the enquiry:*

13.4. All the unions demand that the charges framed against the employee must be clear and specific. There can be no dispute that that should be so. Any enquiry must be conducted in accordance with the rules of natural justice. What those rules are have been laid down by the Supreme Court in a number of decisions. In Union of India *Vs.* T. R Verma 1958 S.C.R 499, (1958 II L.L.J. 259 at 264) the Supreme Court observed: "Stating it broadly and without intending it to be exhaustive, it may be observed that rules of natural justice require that a party should have the opportunity of adducing all relevant evidence on which he relies, that the evidence of the opponent should be taken in his presence, and that he should be given the opportunity of cross-examining the witnesses examined by that party, and that no materials should be relied on against him without his being given an opportunity of explaining them." In Sur Enamel and Stamping Works Ltd. *Vs.* Their workmen [1964 (3) S.C.R. 616, 1963 II L.L.J. 367 at 369] the Supreme Court dealing with same question observed: "An enquiry cannot be said to have been properly held unless—(i) the employee proceeded against has been informed clearly of the charges levelled against him, (ii) the witnesses are examined—ordinarily in the presence of the employee—in respect of the charges, (iii) the employee is given a fair opportunity to cross-examine witnesses, (iv) he is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter, and (v) the enquiry officer records his findings with reasons for the same in his report." *Vide* also the observations in State of Mysore *Vs* Shivabasappa Shivappa Makapur [1963 (2) S.C.R. 943, A.I.R. 1963 S.C. 375, 1964 I L.L.J. 24] and Kesoram Cotton Mills Ltd., *Vs.* Gangadhar and others [1964(2) S.C. R. 809, A.I.R. 1964 S.C. 708, 1963 II L.L.J. 371]. An order passed in violation of these rules would be illegal and is liable to be set aside. That being the law, it is unnecessary to give any specific directions in this behalf.

13.5. The Organisation has made a demand that when a charge is made against an employee, he should be given copies of the complaints and the representations on which the charges have been made. The law is that in an enquiry of this kind, no evidence can be used against the person proceeded against unless he is given notice of it and given an opportunity to rebut it. That will be sufficient protection to the employee.

13.6. The Organisation has made a further demand that enquiries and appeals should be disposed of within a maximum period of three months. In support of this contention reference is made to the provision in the Bipartite Settlement that an appellate authority shall dispose of an appeal within two months from the date of its receipt in case where hearings are not required and that where hearings are required to be given, such hearings shall commence within one month from the date of the receipt of appeal and shall be disposd of within one month from the date of conclusion of such hearings. The Bank opposes the formulation of any such rule. It points out that delays are sometimes caused by causes beyond the control of the parties and not seldom by the very persons against whom proceedings are taken. In my opinion, it is not desirable to lay down any inflexible rule. The matter must be left to the discretion of the concerned authorities.

(2) *A second hearing on the question of punishment:*

13.7. Under the rule relating to the conduct of disciplinary proceedings as it now stands, it is sufficient to hold one enquiry both as regards the charges against the employee and the punishment to be imposed in case they are proved. The Association demands a change in this rule. It contends that the proper procedure is, firstly, to hold an enquiry on the charge and secondly, when the charge is found to be true to hold further enquiry on the punishment to be given and

that therefore the present rule should be modified by providing for two stages in the enquiry, as aforesaid.

13.8. Article 311 of the Constitution, in so far as it is relevant, provides that no Government employee shall be dismissed or removed or reduced in rank except after an enquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and where it is proposed, after such enquiry, to impose on him any such penalty, until he has been given a reasonable opportunity of making representation on the penalty proposed.

13.9. This Article is a reproduction in substance of Section 240 of the Government of India Act, 1935 and on that provision the Privy Council has held that the holding of two enquiries it mandatory, *vide* High Commissioner of India *Vs.* I. M. Lal, 75 I.A. 225, A.I.R. 1948 P.C. 121, (1948) 2 M.L.J. 55. That is also the law under Article 311 of the Constitution. That has been held by the Supreme Court *vide* Khem Chand *Vs.* Union of India (1958 S.C.R. 1080, 1959 I L.L.J. 167, A.I.R. 1958 S.C. 300). That Article has no application to employees in the Reserve Bank and therefore an enquiry by the Bank has only to comply with rules of natural justice, and there is no violation of those rules when one enquiry is held as regards both the truth of the charges and the nature of the punishment. But then the rule requiring two stages in the enquiry was adopted in the Sastry Award and has since been followed all along by the commercial banks. It has also been embodied in the Bipartite Settlement. The position, therefore, is shortly this: The Reserve Bank is not bound as a matter of law to hold an enquiry against an employee in two stages, but such a rule has been observed in all the commercial banks ever since 1953. So far as Government servants are concerned, Article 311 guarantees them this right. In my opinion, the Reserve Bank also should fall in line with the Government on the one hand and the commercial banks on the other and therefore when disciplinary proceedings are taken against the employees of the Bank, there should firstly be an enquiry on the truth of the charges, in accordance with the rules of natural justice, and secondly, if the charge is held to have been made out, there should be a further enquiry on the sentence to be imposed. Discussing the scope of this second enquiry the Supreme Court observed in Khem Chand *Vs.* Union of India (1958 S.C.R. 1080, 1959 I L.L.J. 167 at 175 A.I.R. 1958 S.C. 300 at 307), that the Government servant should be given "an opportunity to make his representation as to why the proposed punishment should not be inflicted on him, which he can only do if the competent authority, after the enquiry is over and after applying his mind to the gravity or otherwise of the charges proved against the Government servant tentatively proposes to inflict one of the three punishments and communicates the same to the Government servant.".

(3) *The Officer who is to conduct the enquiry*:

13.10. Regulation 47 of the Reserve Bank of India (Staff) Regulations, 1948, provides that the competent authority to hold the enquiry is the 'Manager', that he could delegate that work to any Class I Officer but that he must himself, in all cases, decide on the punishment to be imposed. Now the demand of the Association is that the Officer who holds the preliminary enquiry and frames the charges should not himself conduct the final enquiry. That is on the principle that a prosecutor cannot be a judge in his own cause. And it is further contended that such enquiry should be held by an Officer superior to the one framing the charges. But in a departmental enquiry it cannot be laid down as an inflexible rule that the Officer who conducts the preliminary enquiry should not take part in the final hearing. It has been held by the Supreme Court in Province of Bombay Vs. Kushaldas Advani (1950 S.C.R. 621, A.I.R. 1950 S. C. 222) that the principle that a prosecutor cannot be a judge is not strictly applicable to departmental enquiry and there is no bar to a person issuing the show cause notice to trying the case himself. A similar decision was given in Registrar, Co-operative Societies *Vs.* Dharam Chand and others [1962 (2) S.C.R. 433, A.I.R. 1961 S.C. 1743] wherein the Supreme Court held that a Registrar of Co-operative Societies who issued the notice for removal of the members of a Managing Committee was not debarred from himself enquiring the charges against them. This principle was applied by the Madras High Court in an enquiry held by the employer against workmen-employees (Indian Metal and Metallurgical Corporation *Vs.* Industrial Tribunal [1960 (2) M.L.J. (S.N.) 471 *vide* also Koregaonkar (D.A.) *Vs.* State of Bombay (1957 II L.L.J. 23) and Jacob Mathew (A) *Vs.* Professor of Medicine, Medical College, Trivandrum, and another (1966 II L.L.J. 638). No change therefore is called for in the present Regulation.

(4) *Provision for defending the employee*:

13.11. There has been keen controversy before me over this question. Before the Desai Tribunal the question was raised as to the right of the employee, against whom disciplinary proceedings are taken, to be defended by a representative of the trade union of the Banks employees. The stand taken by the Bank was that such representation was allowed in cases where the penalty of dismissal was likely to be imposed but not in other cases. But the Tribunal referred to the decision of the Sastry Tribunal on this question, and to its own Award in the commercial banks' reference and held that there was no ground for limiting the right of representation to cases likely to result in dismissal and that the employee should have that right in all enquiries when disciplinary action is taken. There has been some controversy as to the true scope of this direction. The stand taken by the Bank is that while the Award removed the restriction of the right to be defended by a representative only in cases in which the extreme penalty was likely to be imposed, it left untouched the previous restriction that the employee could be defended only by another employee of the Bank who was a member of the Reserve Bank Employees' Union. The unions on the other hand maintain that no such restriction should be imposed on this right and contend that in any event the right of the employee to be represented by a representative of a union should now be recognised even though such representative is not an employee of the Bank. In support of this position reliance is placed on the awards given in commercial banks' reference, and on the terms of the Bipartite Settlement.

13.12. As against this Shri Phadke relies on the Model Standing Orders under which the right of an employee to be represented is limited to another employee in the same department and on the observations of the Supreme Court in Kalindi (N) and others *Vs.* Tata Locomotives and Engineering Company Ltd., [1960 (3) S.C.R. 407, A.I.R. 1960 S.C. 914 at 915, 916; 1960 II L.L.J. 228 at 229] that in a departmental enquiry against a workman for misconduct, rules of natural justice do not require that he should be represented by a member of the unions but that the employer might in his discretion allow him to avail himself of such assistance. It was further argued that the Reserve Bank, as the Central Bank of India, transacts matters of a highly confidential character, and that it is not in public interest that a non-employee of the Bank should have access to them. It was also stressed that it would be inconsistent with the character of these enquiries to permit lawyers to appear therein as that will have the effect of transforming a fact finding domestic tribunal into a legalistic public forum. Having considered all the aspects of the matters, I am of the opinion that there is no ground for limiting the right of representation in the manner claimed by the Bank. As in the case of commercial banks, the employee will have the right to be represented by any person who is a representative of a trade union of the employees of the Bank.

13.13. A claim has been made by the Federation that when an employee is defended by a representative of the trade union of the Bank's employees, such representative should be treated as if on duty while he is engaged in defending him. That is a reasonable request and must be granted. The further demand that such representative coming from another station should be granted travelling and halting allowances is, in my opinion, not reasonable. The Bank has its offices in places of major importance in India. An employee should be able to find a proper representative to defend him in his own place and when he chooses to get one from another station, he must do so, at his own cost.

CHAPTER XIV

Subsistence Allowance during the period of suspension

14.1. The rules of the Reserve Bank bearing on this topic are Regulations 46(1) and 47(4) of the Reserve Bank of India (Staff) Regulations, 1948. Regulation 46(1) deals with employees who are suspended on account of arrest or detention under process of civil or criminal Courts and Regulation 47(4) deals with cases of departmental enquiry for misconduct. It is provided therein that the employee may be placed under suspension pending the proceedings and that during the period of suspension he be paid a subsistence allowance equal to his substantive pay. In cases falling under Regulation 46(1), where there is honourable acquittal, the competent authority might treat the employee as on duty and he will be paid all his allowances but where there is simply an acquittal, he might be treated as on duty or on leave and paid the amounts due under the Regulations. In the case of a departmental enquiry where the final order is not one of dismissal, the employee is treated as on duty or on leave as the appropriate authority may decide and he will be paid on that basis.

14.2. The main dispute before me is as to the quantum of subsistence allowance. One demand is that subsistence allowance must be equal to substantive pay and dearness allowance; another is that it should include 50 per cent. of Dearness Allowance and a third is that it should include 50 per cent. of the allowances admissible.

14.3. The Bank has filed exhibit B-129 setting out the rules in force in the Bank, the demands of the unions and the position in 'A' Class banks and in Central Government. In Central Government the Subsistence Allowance is normally equal to the salary admissible to the employees, if he were on leave on half pay and that means half the pay and the dearness allowance payable thereon. Where the period of suspension exceeds 12 months it may be increased or decreased by a suitable amount not exceeding 50 per cent. Coming next to the commercial banks the Sen Tribunal directed payment of Subsistance Allowance during suspension at such rate as the suspending authority might direct but not less than one-third of the pay and allowances. The Sastry Tribunal also gave one-third of the pay and allowances when an employee was placed under suspension but further provided that when the period of suspension exceeded three months in the case of departmental enquiries and six months in the case of outside authority, the allowances should be, half the pay and allowances. The Labour Appellate Tribunal did not interfere with this decision. The Desai Tribunal, in the commercial banks' reference, agreed with the Sastry Tribunal and awarded a Suspension Allowance on the same terms. The Bipartite Settlement has also adopted these terms.

14.4. It will be seen that while the Bank grants Subsistence Allowance equal to the substantive pay, the commercial banks pay 1/3rd of the substantive pay and allowances as Subsistence Allowance. In the actual working, the provisions of the Reserve Bank were, until recently, more advantageous to the employees. But latterly, due to the increase in the quantum of Dearness Allowance as a result of the rise in the consumer price index numbers, the employees in commercial banks are in a better position. In this situation two courses are now open. One is to adopt the rule in the commercial banks and provide that 1|3rd of the basic salary and Dearness Allowance should be paid as Subsistence Allowance. The other is to retain the scheme of the payment of the full basic pay and add to it so as to counter-balance the position in the commercial banks. None of the unions has asked for the Bipartite Settlement scheme being adopted. Their demand is that the Subsistence Allowance should consist not merely of basic pay in full but also of the dearness and other allowances, either in whole, or in part. I, therefore, consider that it would be just and reasonable to award to the employee during the period of suspension, the substantive pay in full as now and in addition, 25 per cent. of the substantive pay.

14.5. There is one other demand on this subject which must be considered. The Organisation demands that in all cases in which the employee is punished, he should be paid his full wages for the suspension period except only when he is dismissed or his services are terminated. I am unable to accept this contention.

CHAPTER XV

Leave Rules

15.1. The principles governing the grant of leave to public servants were exhaustively reviewed by the First Pay Commission and again by the Second Pay Commission. It has been stated therein that in general two outstanding considerations should be kept in view in the grant of leave. One is that the employee who has rendered work should be given adequate rest so that he could return to work with renewed vigour. "We think", observed the First Pay Commission "that as a matter of principle, public servants should not merely be encouraged but even compelled to take leave at short intervals so that the public service may have the benefit of their return to duty in renewed health." (page 81, Para. 148 of the Report). Consistently with this purpose, the quantum of leave should vary with the number of years for which the employee has worked. A person who has put in a larger number of years in service should be entitled to a longer span of leave. The other consideration bearing on this question is that the quantum of leave should not be such as to impair the interests of the public. A person on leave is entitled to his salary and the public has a right to expect that the period of leave should not be more than what public interest justifies, (*vide* the Report of the Second Pay Commission, pages 422-423). These principles should be borne in mind when examining the demands made under this head.

15.2. The kinds of leave admissible to workmen-employees in Classes II and III in the Bank are, (a) Casual leave, (b) Special Casual leave, (c) Ordinary leave, (d) Sick leave, (e) Special leave, (f) Extraordinary leave, and (g) Maternity leave. Regulations 75 to 95 of the Reserve Bank of India (Staff) Regulations, 1948 set out the leave provisions applicable to the employees. It will be convenient to deal with the demands relating to the several items aforesaid seriatim.

(a) *Casual Leave*:

15.3. Excepting a temporary employee who has not completed 6 months' service, all the other employees in the Bank are entitled to 15 days' Casual leave in a calendar year provided that not more than 7 days can be taken continuously. Casual leave which is unavailed of would lapse at the end of the calendar year. Three demands have been made by the unions with reference to this item: (1) The Association and the Federation ask that unavailed of Casual leave should be added to the ordinary leave account of the employee. While the Association has asked for such addition upto the limit of 7 days, the Federation wants that the whole of it should be added; (2) the Organisation wants that unavailed of leave should be added to the sick leave of the employee; and (3) the Association also demands that even temporary workmen who have not completed 6 months' of service should be given Casual leave.

15.4. In Government service, Casual leave is allowed to the employees up to a maximum of 12 days in a calendar year and this is also the position in the commercial banks. While in Government service Casual leave may be taken, on any occasion, up to a limit of 10 days, in the commercial banks not more than 4 days can be taken continuously. Casual leave which is unavailed of altogether lapses in Government service but in the commercial banks they can be converted into sick leave with full substantive pay in the following year. It will be seen from the foregoing that the number of days allowed to an employee as Casual leave in the Reserve Bank is more than in the commercial banks or in the Government. The maximum number of days which can be availed of as Casual leave on any one occasion is also more in the Reserve Bank than in the commercial banks. These factors should be borne in mind in dealing with the provision in the Bipartite Settlement for adding up the unavailed of Casual leave to the sick leave account. The demands made by the unions before me that such days should be added either to the ordinary leave account or to the sick leave account ignores the fundamental purpose for which Casual leave is given. It was observed by the Desai Tribunal that Casual leave was really meant to be availed of for special emergent and unforeseen circumstances and cannot be regarded as accrued unconditional benefit to which an employee is entitled, absolutely. Unavailed of Casual leave is not allowed to be carried forward as ordinary or sick leave in Government service.

15.5. Lastly there is the claim of the Association that temporary employees who have not put in 6 months' service should be eligible for Casual leave at the rate of one day for every completed month of service. There is no similar provision either in Government service or in the commercial banks and I cannot find any justification for introducing it in the Reserve Bank. In the result there are no grounds for making any change in the present rules relating to Casual leave.

(b) *Special Casual Leave*:

15.6. When representatives of the unions attend the meetings connected with their organisation matters, they are given, what is called, "Special Casual Leave". Under the rules now in force in the Bank, representatives of the Association are given 15 days Special Casual leave for attending its meetings. This is in addition to the 15 days' normal casual leave available to all employees. This Special Casual leave concession is given only to the representatives of the Association but not of the other unions of employees concerned in this dispute. Two demands have been made with reference to this matter: (1) The Association wants that the Special Casual leave must be increased from 15 to 30 days, (2) The Federation and the Organisation demand that their representatives also should be given the same Special Casual leave concession.

15.7. Firstly, as regards the demand of the Association for an increase in the number of days of Special Casual leave, it may be noted that in Government service, Special Casual leave for attending meetings of the service unions varies from department to department and ranges from 20 to 25 days. Turning next to the commercial banks, the Sastry Tribunal, dealing with this question observed: "We are of opinion that no case has been made out for "Special leave". Legitimate trade union activity should be conducted out of office hours and without

detriment to the interests of the bank." (Para. 471). The Desai Tribunal, however, took a different view. It held that having regard to the fact that workmen in the banking industry had been organised on an All-India basis and that there were All-India organisations to which various unions of workmen employees in banks had been affiliated, it was in the interest of the industry that casual leave should be granted to office-bearers of the organisations in order to enable them to attend meetings and conferences. It accordingly granted Special Casual leave upto seven days in a calendar year to office-bearers of All-India Bank Employees' Association, the All-India Bank Employees Federation and the All-India State Bank of India Staff Federation, for the purpose of attending meetings and conferences of their respective organisations. (Para. 9.26). The provisions in the Desai Award were substantially liberalised by the Bipartite Settlement. Under that Settlement office-bearers of the All-India Bank Employees' Association, the All-India Bank Employees' Federation and the National Organisation of Bank Workers were allowed Special leave upto 21 days for attending the meetings of the respective unions. The office-bearers of the State or regional organisations affiliated to these unions are allowed Special leave of 17 days and 7 days respectively. In line with what is granted in the Bipartite Settlement, I direct that the number of days of Special Casual leave be raised from 15 to 21.

15.8. The next demand relates to the claim of the Federation and the Organisation that they should also be given the Special Casual leave concessions. The Bank resists the claim. The argument of the Federation and the Organisation in support of the claim is that the right to form unions is one guaranteed by the Constitution that the exercise of that right requires that the office-bearers of the unions should be free to attend their meetings and that in this respect no distinction can be made between one union and the other. It is further pointed out that under Section 10A of the Industrial Disputes Act, 1947, it is not merely the Association recognised by the employer but that all other unions have a right to be heard and that is how the Federation and the Organisation have intervened as parties to these proceedings. It is also stated that the Federation is a trade union affiliated to the All-India Bank Employees' Federation. The Organisation likewise states that it is affiliated to the National Bank Workers' Organisation. The contention of the Bank is that it is only when the union is recognised by the employer that Special Casual leave can be claimed on behalf of its office-bearers, and relies on the provisions in the Code of Discipline in Industry in support of this contention. Exhibit B-138 is a copy of the Code and it provides for the recognition of a union of employees in accordance with the criteria laid down at the 16th session of the Indian Labour Conference held in May, 1958. The criteria laid down at the said Conference are that where there are several unions in an industrial establishment, the one which has the largest membership should be recognised and that further the employer should recognise only unions which have as its members a certain percentage of its employees of the category concerned. It is in accordance with these provisions that the Bank has recognised the Association and declined to recognise the other unions. I am unable to see any sufficient ground for compelling the Bank to recognise the unions which do not satisfy the criteria laid down in the Code of Discipline in Industry. Nor do I see any force, in the argument that the Constitution recognises the right to form trade unions. It is one thing to recognise a trade union and quite a different thing to confer on it concessions as regards Special Casual leave, payment of travelling expenses and the like. Likewise, the right to intervene in disputes under Section 10A of the Industrial Disputes Act, 1947 does not carry with it the right to insist on Special Casual leave for attending meetings of the union. The utmost that can be claimed is that in attending to the hearings of proceedings under Section 10A, the representatives should be treated as on duty. That question, however, is not before me.

15.9. A demand has also been made for the grant of Special leave facilities to sportsmen. The Association has asked for 30 days of such leave to sportsmen and an additional 30 days of such leave to those participating in the State/National or International events. The Federation claims one month's leave to employees representing National/State/District sports or cultural meetings. The Central Government grants Special leave for a period not exceeding 30 days in a year to sportsmen in certain specific circumstances. In the Bipartite Settlement there is no provision for giving Special leave for sportsmen. The Bank has recently introduced a rule authorising the grant of "Special Casual Leave for Sports". It can be granted upto 30 days in a calendar year and is available to sportsmen for participating in sporting events of national or international importance and when they are selected for such participation in respect of international sporting events by any National Sports Federation or Association recognised by the All-India Council

of Sports or approved by the Ministry of Education or in respect of events of National importance when the sporting events in which participation takes place is held on an inter-State, inter-zonal, inter-circle basis and the employee concerned takes part in the event, in a team, as a duly nominated representative on behalf of the State, zone, or circle, as the case may be, or on behalf of the Bank's Sports' Club. These provisions are, in my opinion quite liberal and do not call for any change.

(c) *Ordinary Leave*:

15.10. Under the existing rules, the workmen-employees in Classes II and III are allowed Ordinary leave at 1/11th part of their 'duty', and 'duty', for this purpose, includes (i) service as a probationer, (ii) the time requisite for joining duty, and (iii) the period of casual leave duly authorised by a competent authority. Temporary staff with less than one year's service are given Ordinary leave at 1/22nd part of duty and after that period the leave admissible is the same both to temporary employees and permanent employees. In Central Government this is called "Earned Leave" and its quantum is the same as in the Reserve Bank. In commercial banks, this is called "Privilege Leave" and is admissible at the rate of one month for every eleven months of completed service. The demand of the Federation is that the employee should be allowed ordinary leave at 1/10th of the part of duty and that temporary employees also should be given leave at the same rate. The present position in the Bank is the same as in Central Government and it compares favourably with that in commercial banks. It does not require any change.

15.11. Then there is the question of accumulation of Ordinary leave. The rule in the Bank is that a workman-employee is entitled to accumulate his Ordinary leave upto four months. To this may be added refused leave. Further, the leave earned by the employee during the 22 months preceding his retirement at the age of 55 can also be tacked on to the four months of ordinary leave. That is to say he can retire with six months of leave. In Central Government 'Earned' leave can be accumulated upto 180 days, but under the Bipartite Settlement, the period of accumulation allowed is only upto three months. The Association and the Federation demand that the limit as to accumulation should be raised to six months. The rules of the Bank in this respect are more favourable than those in commercial banks, and there are no grounds for altering them.

15.12. A question has also been raised as to the number of occasions in a year on which the employee can take Ordinary leave. within the limit allowed by the rules. Before the Desai Tribunal, a demand was made by the commercial banks that there should be a limit to the number of times on which an employee could avail himself of this leave as otherwise the work of the bank might suffer, and the public would be inconvenienced, by leave being availed of in driblets. The Desai Tribunal agreed with this contention and provided that except under certain circumstances, this leave could not be availed of more than twice in a year. The Bipartite Settlement has increased the number of such occasions to three. There is nothing like this either in Government service or in the Reserve Bank. A demand is now made on behalf of the Bank that a provision should be made as in the Bipartite Settlement limiting the occasions ordinary leave annually to three. I am not satisfied that there is any need to impose such a limitation. It is well settled that no leave can, on principle, be claimed as a matter of right and the Bank has a discretion to refuse leave on any particular occasion in the interests of the public. No change need be made in the present position.

15.13. Under the present rule an employee who applies for leave has to give at least one month's notice. There is a similar provision in commercial banks. But in Central Government rules there is no such provision. The demand of the Association now is that the period of notice should be reduced to 15 days, while that of the Federation is that a week's notice should be sufficient. In my opinion, there is no ground for reducing the period prescribed by the rules in all the banks. It is scarcely necessary to add that the present rule does not bar the Bank from granting leave even earlier than 30 days, if the circumstances permit. The Organisation has made a further demand that an application for leave should be deemed to have been granted, if no order is passed thereon, within seven days. I am unable to accept this contention, which is rejected.

15.14. Another demand of the Association is that when an employee goes on leave, there should be an advance payment of salary to him by the Bank. The Second Pay Commission has observed that the payment of advance salary does not involve any additional expenditure and recommended that salary upto a

month may be given as advance to a Central Government servant proceeding on leave. That is the present practice in Government. In commercial banks salary falling due during the leave period will be paid in advance when the workman avails himself of the Leave Fare Concession, but not in other cases. The present practice in the Bank is that no advance payment of salary is made to an employee going on leave, but that is paid at the end of each month, as and when it accrues. It is true that it has not been suggested that there has been any delay in such payment or that great inconvenience is caused thereby. Nevertheless, I direct that in accordance with the practice in Central Government, an employee going on leave be paid, if he applies for it, leave salary upto a month in advance and the rest be paid, at the end of each month as at present.

(d) *Sick Leave.*

15.15. An employee is granted, under the existing rules, Sick leave for a period not exceeding 18 months and for any such further period, as the Central Board might sanction. For the first twelve months of Sick leave, the employee is paid half average pay and thereafter quarter average pay. When an employee has put in five year's permanent service, he may at his option, be paid "full pay" upto a maximum of six months but such leave will be reckoned at double the period available to him in Sick leave account.

15.16. The Association asks that 18 months' limit be raised to 24 months on half pay with a right to commute the period to 12 months' leave on full pay and that such commutation be allowed, if the employee has put in two years of service including temporary service. The Federation asks that Sick leave on full average pay be given for 18 months in the total period of service. The Organisation demands that the employee should get a total Sick leave of 12 months on average pay and allowances, and a further Sick leave of six months on half averege pay and allowances.

15.17. In commercial banks, Sick leave is granted at the rate of one month for each year of service subject to a maximum of 12 months provided that where the employee has put in a service of 24 years he would be eligible for additional Sick leave at the rate of one month for each year of service in excess of 24 years, subject to a maximum of three months. There is a provision for commutation of the period of 12 months to 6 months on full pay as in the Reserve Bank. There is no provision for Sick leave under the Government rules but there is, apart from 'Earned leave', a provision for giving leave on half pay and that can be availed of for sickness. It will be seen from the foregoing that the rules of the Bank are more favourable than those in the commercial banks and no case has been made out for any modification.

15.18. Under the existing rules an employee who applies for Sick leave has to produce a medical certificate. In commercial banks casual leave may be taken on grounds of sickness without the production of a medical certificate provided the total period of sickness does not exceed four days. The demand of the Association is that the Bank should likewise not insist on the production of a medical certificate when the absence of an employee is due to sickness or indisposition not exceeding four days. The Federation asks that no medical certificate should be required if leave is applied for on medical grounds for a period upto seven days. The Bank states that the Manager has got the power, in his discretion, to dispense with the production of a medical certificate in case of casual leave on medical grounds. In my opinion, leave on medical grounds upto four days should be available to the employee even without the production of a medical certificate.

15.19. A connected question is about the production of what is known as "fitness certificate", when an employee, who has been granted leave on medical grounds comes back to duty. Regulation 83 of the Reserve Bank of India (Staff) Regulations, 1948 provides that a competent authority may require an employee who has availed himself of leave for reasons of health to produce a medical certificate of fitness before he resumes duty even though such leave was not actually granted on a medical certificate. The practice in the Bank is, it is said, that the fitness certificate produced by the employee is required to be countersigned by its own Medical Officer. The demand of the Association is that no such countersignature should be required. In the case of a Government servant it is only necessary to produce a certificate of fitness in the prescribed form from a Medical Committee, or Civil Surgeon, or registered medical practitioners. In conformity with this procedure, it should be sufficient to produce a fitness certificate from a registered medical practioner without the need for further countersignature by the Medical Officer of the Bank. I so direct.

15.20. The Organisation has made a special demand that the services of persons who are absent owing to prolonged illness shall not be terminated, as now they are, by the Bank. As regards employees whose services are terminated on account of Tuberculosis, the Bank states that when they produce a certificate of fitness, they are re-employed and on such re-employment they are given the same pay as they were entitled to draw at the time of their discharge. The rule in force in Government service is similar and there is no need to alter the present rule.

15.21. A claim is also made that a Staff Benefit Fund should be instituted for the aforesaid persons. It is not possible to give a direction for the institution of such a Fund.

(e) *Special Leave*:

15.22. An employee in the Bank may be granted what is called "Special Leave". This is intended to enable him to attend to his private affairs. This leave may be granted upto a maximum of twelve months. For the first six months, the employee is paid half average pay and thereafter quarter average pay. This leave is not admissible to temporary employees, nor can it be availed of, if Ordinary leave is admissible, except where the employee is absent on account of quarantine. The Association has made a demand that this leave should be allowed to be commuted to one for six months' leave with full pay and that the employee should be eligible therefor provided he has put in two years of service including temporary service. The Federation has asked that the limit of 12 months be raised to 18 months and that this leave may be allowed to be combined with Ordinary leave. Under the Central Government rules, there are provisions for a half pay leave which can be availed of either on production of medical certificate or for attending to private affairs. There are also certain kinds of leave called "Special Disability Leave", "Hospital Leave", and "Seaman's Sick Leave" which can be availed of for sickness. These provisions are so dissimilar to those in force in the Bank that no useful purpose would be served by comparing them. In commercial banks, there is no special provision for granting leave on for attending to private affairs. The present rules relating to Special Leave, therefore, do not, in my opinion, call for any revision.

(f) *Extraordinary Leave*:

15.23. Extraordinary leave without pay and allowances is granted to an employee when no Ordinary leave is due to him and Sick or Special leave over and aobve what is admissible is not considered justified. This leave is admissible upto 12 months during the entire service with a maximum of three months on any one occasion. The Bank has a discretion to grant this leave for a further period in certain circumstances. Temporary employees are also given extraordinary leave upto a maximum of three months. The period of Extraordinary leave does not count for increments except in certain cases.

15.24. Now the demand of the Association is that the period of Extraordinary leave should count for increments and that this leave should not be imposed on the employee, if other forms of leave are due to him. The Federation wants that this leave should be granted to employees in cases of serious accident or sickness for a period extending upto 18 months during the entire period of service.

15.25. Under the rules of the Central Government, Extraordinary leave may be granted in special circumstances for periods ranging from 3 months to 24 months on any one occasion. In commercial banks Extraordinary leave may be granted when no Privilege leave is due to an employee and it may extend upto 12 months during the entire period of the service, except in certain circumstances. No pay and allowances are admissible during this period nor does it count for any increment excepting in special cases.

15.26. The main demand of the Association is that Extraordinary leave should count for increments. This proceeds on a misconception as to the true character of Extraordinary leave. The following observations of the Second Pay Commission directly bear on this point. "the main purpose of Extraordinary leave is to maintain continuity of service of an employee. Ordinarily the period of such leave does not count for increment or qualify for pension. It is in essence an arrangement by which an employee's continuing title to his appointment is recognised", (para. 16 page 428). The contention, therefore, that Extraordinary leave should count for increments in all cases cannot be accepted.

429, para. 17) . In commercial banks also the general rule is that Privilege leave lapses when the employee ceases to be in service. There are two exceptions to this rule: One is that when the employee's services are terminated owing to retrenchment, when he will be paid his pay and allowances for the period of the Privilege leave to his credit, and the other is when Privilege leave to which he was entitled had been applied for and refused. Having regard to the rules in force in the Central Government and in the commercial banks, the claim for encashment of accumulated leave should be refused.

15.31. In the Bank an employee is, as already stated, allowed to accumulate his leave for four months which might become even six months when he retires at the age of 55 without availing himself of the leave during the ewenty-two months preceding his retirement. But the position is different, if he retires at the age of 58; and the accumulated leave must be availed of before he reaches the age of 58, or else, it will lapse. There is no reason for making a difference between a retirement at the age of 55 and one at the age of 58. I, therefore, modify the present rule by providing that even when an employee retires at the age of 58 years he should be entitled to accumulate his leave upto a period of six months if he is entitled to it and should be deemed to have retired at the end of that period. I should add that this is the rule as applied to Class IV employees, when they retire at the age of 58.

15.32. Then there is, finally, the question as to how the "average pay" is to be calculated. At present the "average pay" in the Reserve Bank means the average of the monthly 'pay' earned while on duty during the twelve calendar months immediately preceding the month in which the employee proceeds on leave; and where he had not been on duty for more than a year, the average monthly 'pay' earned while on duty during the calendar months immediately preceding the month in which he proceeds on leave. Now the demand of the Association is that the average pay should be calculated in accordance with the provisions of the Industrial Disputes Act, 1947. Under this Act, the average pay in the case of monthly paid workman is the average of the three completed calendar months preceding the date on which the average pay becomes payable if the workman had worked for three complete calendar months and where such calculation cannot be made, the average pay is to be calculated as the average of the wages payable to a workman during the period he actually worked, [vide Section 2(2) (aa)]. In substance the dispute is as to whether the average should be calculated on the wages paid for the preceding twelve months or three months. In Central Government an employee who has earned his leave is entitled to leave salary equal to the average monthly pay earned during ten complete months immediately preceding the month in which the leave commences, or the substantive pay to which the employee is entitled immediately before the commencement of the leave, whichever is greater. I think that the Government rule furnishes a safe guide and that the average pay in the Reserve Bank should be calculated with reference to the monthly pay earned during the ten complete months immediately preceding the one in which the leave commences.

CHAPTER XVI

Leave Fare Concession

16.1 It will be useful, to begin with, to make a brief survey of the history of Leave Fare Concession. Prior to the First Pay Commission, no travelling allowance was allowed to Central Government servants going on leave, except in Railway service. Before that Commission, however, a claim was made for such an allowance to all Government servants, as they were unable otherwise to avail themselves of leave concessions owing to the prohibitive cost, which the travel, to and from the palce of domicile, involved. The Commission accordingly decided that one set of Privilege Ticket Order per year should be allowed to the Government servant and the members of his family for journey to the palce of domicile and return. After having been in force for sometime, this rule underwent two modifications: It could be availed of only once in two years and further the Government paid only 90 per cent. of the fare beyond a distance of 250 miles (400 kilometers). But the Second Pay Commission liberalised the concession by recommending the grant of travelling allowance to Government servant once a year, when he was living away from his family, and recognising other modes of travel than by rail. Turning next to the commercial banks, the question of Leave Fare Concession was considered by the Sen Tribunal. After referring to the recommendations of the First Pay Commission on this subject, the said Tribunal rejected the demand of the employees for the concession on the

ground that they were not liable to be transferred out of the State in which they were serving. The claim was again pressed before the Sastry Tribunal on the strength of the recommendations of the First Pay Commission and the regulations of the Reserve Bank on this subject but it was again rejected. The matter was then agitated before the Desai Tribunal, which directed that such concessions should be given in 'A' Class banks once in three years when the employees went on leave for not less than 30 days. In the Bipartite Settlement, this concession has also been extended to employees in 'B' Class banks. A review of the history of Leave Fare Concession discloses that though in the beginning it was looked upon with disfavour and had to struggle long for recognition, it has now come to be recognised as a normal feature of service regulations.

16.2 I shall now refer to the rules of the Reserve Bank relating to this matter so far as they are relevant to the demands. The Leave Fare Concession is admissible to employees with one year's permanent service. It is available once in three years, provided the employee takes not less than one month's leave other than Casual leave and Extraordinary leave. The concession can be availed of either to go to the place of domicile of the employee or to a destination which is at a distance of not more than 1,208 kilometres (750 miles). The journey is to be performed by rail and for workmen in Class II, first class fares, and for those in Class III, second class fares are reimbursed. In certain specified circumstances, other modes of travel are also recognised for this purpose. This concession is available to the employee and his family. Family for the purpose of this concession includes the employee's wife and children, ordinarily residing with and wholly dependent on him. This concession will be available only when both the employee and his family go to the same destination though they may, under certain circumstances, travel separately.

16.3 Now the demands of the unions on this subject will be considered. As stated above, an employee will now be eligible for this concession only if he has been in permanent service for a year. The demand of the Association and the Federation is that it should be available even to a temporary employee who has put in one year's service. In Central Government, it is sufficient if the employee has put in one year of continuous service. Temporary service for a year also will fall within the purview of this rule. I accordingly decide that a temporary employee who has put in continuous service of one year in the Bank be also entitled to this concession.

16.4 An employee can avail himself of this concession for himself and his family once in three years. He must take at least one month's leave to avail himself of this concession. In commercial banks this concession is available only once in three years provided the leave is for a period of not less than 15 days. In Central Government, this is available once in two years and the minimum period of leave for eligibility of this concession is 15 days. The demand of the unions is that this concession should be available once in two years and it should be granted even when the period of leave is not less than 15 days. In conformity with the rules in force in the Central Government, I decide that the concession should be available once in two years, and that the minimum period of leave required for the grant thereof should be reduced to 15 days.

16.5. Under the rules, when an employee entitled to this concession travels to his place of domicile, he is paid the full fare, whatever its distance; but when he travels to any other place, he is given fare upto a distance of 1,208 kilometres (750 miles). The demand of the unions is that this limit should be raised, according to the Association and the Federation, to 1,600 kilometres (1,000 miles), and according to the Organisation, to approximately 2,000 kilometres (1,250 miles). In Central Government service, this concession is not available when the travel is to a place other than that of domicile. Under the Bipartite Settlement this concession is available when the travel is to a place other than the place of domicile, only upto 800 kilometres (500 miles) in the case of 'A' Class banks and 500 kilometres (312.50 miles) in the case of 'B' Class banks. Thus, this concession is one that is granted only by the banks and not by the Government; and among the banks the provisions in the Reserve Bank are more generous than those in the commercial banks. I see no reason to alter the rules.

16.6 Then there is the demand of the unions that first class fare should be allowed to employees in Classes III. At present a Class III employee is given a second class fare, when the journey is performed whether by rail or steamer. The position in the commercial banks now is that the employees who are travelling on leave, are entitled only to a second class railway fare, but, where the journey involves travel by night or where during day time there is no second

17.2 Before dealing with them, it is necessary to consider a question of principle that has been strongly pressed before me. It is argued on behalf of the unions that the Bank observes two standards in the matter of grant of medical aid, one for the Officers, and the other for the clerical staff, that while the facilities afforded to Officers are liberal, those given to the clerical staff are niggardly and that the same rules should apply to all of them without distinction. The Association has filed Exhibits A-122 and A-123, the Federation Exhibit F-54, and the Organisation Exhibits O-56 and O-57 for showing that Officers are given special medical facilities. O-58 and O-75 are the notes filed by the Organisation on this question. The Bank has filed Exhibits B-135 and B-136 in reply thereto. In support of their contention that the status of the employee should not count in the grant of medical aid, the unions have relied on certain observations in the two Central Pay Commission Reports. The first Pay Commission while considering medical aid admissible to Central Government employees observed: "It is claimed with some reason that the nature and seriousness of the ailment should be the deciding factor and not the status of the patient" (page 56, para. 92). Referring to this, the Second Pay Commission said: "This is a principle from which no one would dissent; and there appears to be no rule or order which directly militates against this principle" (para 12, page 467).

17.3 As against this, Shri Phadke argued that the grant of medical facilities is one of the fringe benefits which has to be taken into account in fixing wages and therefore must be related to the wage-earning capacity of the workman and relied on the observations in Kamani Metals and Alloys case (A.I.R. 1967 S.C. 1175 at 1177, 1967 II L.L.J. 55 at 58) in support of this position. In that case, the Supreme Court observed: "The second principle is that wages must be fair, that is to say, sufficiently high to provide a standard family with food, shelter, clothing, *medical care* and education of children appropriate to the workman but not at a rate exceeding his wage-earning capacity in the class of establishment to which he belongs. A fair wage is thus related to the earning capacity and the work-load."

17.4 The position in the commercial banks may also be examined. The Sen Tribunal while rejecting the contention that there was no obligation on the banks to provide for medical facilities, directed the grant of medical aid to them, so far as 'A' Class banks in Area I were concerned, with a ceiling ranging between Rs. 15 to Rs. 50, depending on the basic pay of the employee. The Sastry Award modified this some what by fixing a ceiling for the workman with reference to the class of the bank and the area in which he worked. In the commercial banks' Award, the Desai Tribunal adopted the scheme of the Sastry Award with the further provision which had been recommended by the Labour Appellate Tribunal that the unspent balance within the ceiling of any particular year could be accumulated within certain limits. The Bipartite Settlement is on the same lines as the Desai Award (Commercial Banks) with one important addition. The medical facilities are extended to the family of the employee also. Thus, the scheme in the commercial banks also is to treat the workmen as a distinct class for purpose of medical facilities, at the same time liberalising them.

17.5 In a socialistic pattern of society the ideal to be achieved undoubtedly is that it is the State and not the employer that must provide medical facilities to all its citizens. But this, like the concept of living wage, is a distant ideal and that is why the duty has been laid on the employers to provide for medical facilities to their employees. But that duty must necessarily be related to the contribution of workman to the work of the employer and it is this that is at the basis of the gradation of facilities for different strata of employees in official circles. It is with reference to this that the First Pay Commission after making the observation quoted above remarked that any attempt to meet the claims would "involve a change in the basis of the rules". Such a change cannot now be made in view of the present set up of the Society. But on the principle of fixation of fair wages, the provisions for medical facilities should be fair and liberal.

17.6 Coming now to the specific demands of the unions, the Bank has filed Exhibit B-134 giving a comparative statement of the medical facilities now available to workmen employees in the Bank, in 'A' Class commercial banks and to Government servants. Dealing with the demands topic-wise, there is firstly, the question of the appointment of Medical Officers. The Bank appoints Medical Officers on full-time and part-time basis. It has also appointed Lady Doctors in some of its dispensaries. Likewise there are full-time and part-time Compounders. Exhibit B-110 sets out the details regarding part-time Compounders. The present hours of attendance of the Medical Officers and Compounders vary

according to the centres and to their requirements. At centres where the number of staff is small there are no fixed hours but the employees are permitted to consult the Bank's Medical Officer at his private dispensary during his usual working hours. Now the demand of the Association is not merely that qualified Medical Officers and whole-time Compounders should be employed at all offices. It proceeds further and lays down how many part-time Medical Officers and Lady Doctors should be appointed. There is a further demand that Doctors should be appointed for a period of three years in consultation with the Association. There is also a demand by the Federation that the dispensaries should be kept open even on Sundays and holidays and for specified hours. How many Doctors and Compounders are to be appointed, whether they should be full-timed or part-timed and for how many hours the dispensaries should be kept open are all matters on which the decision must necessarily depend on the requirements at the place and that should be left to the discretion of the Bank. It is not a matter on which any hard and fast rule can be laid down, nor is it one in which the unions should have a voice. The demands of the unions on this point must therefore be rejected.

17.7 Under the present rules, the employees of the Bank are entitled to free medical facilities at the Bank's dispensaries. In the case of special drugs or injections prescribed by the Bank's Medical Officer and not available in the dispensaries, the employee can obtain them outside, and the Bank reimburses the cost thereof. Where they go to a Government or Municipal hospital for treatment and purchase medicines prescribed by the authorities of those hospitals, they will be reimbursed the cost if such treatment is taken at the instance of, or with the prior approval of the Bank's Medical Officer. As regards the members of the family of the employee, they are allowed to avail themselves of the medical facilities at the dispensaries at subsidised rates. But the Bank does not reimburse the cost of medicines or drugs purchased outside for the members, nor the expenses of their treatment outside, except in special cases. Now the demand of the unions is that the facilities given to an employee at the Bank's dispensaries and for outdoor treatment should be extended to members of their family. In Government service the rule as regards families of Government servants is that they are entitled to medical attendance and treatment free of charge only at Government hospitals. Under the Bipartite Settlement the medical facilities given to the employees are available also to the members of his family. I direct that medical facilities now available under the rules to a workman-employee of the Bank be extended to the members of his family and where the members of the family have to purchase medicines or drugs outside this dispensary, the employee should be reimbursed their cost, provided such purchase is made with the previous approval of the Bank's Medical Officer.

17.8 When an employee has to undergo pathological/radiological examination or treatment, he is now sent, on the recommendation of the Medical Officer of the Bank, to one of the Government or Municipal Hospitals wherein special arrangements for such treatment have been made by the Bank. The expenses of such consultation and treatment as out-door patient are borne by the Bank. But where there is no such approved hospital, the employee may resort to other Government or Municipal Hospitals or any public or 'private' hospital. But in such cases the Bank would reimburse what is payable at one of the approved or Government hospitals and, at centres where no charges are levied in Government hospitals, at specified rates. In the case of the members of the families, however no reimbursement is allowed for consultation and treatment as out-patients The demand of the unions is that no distinction should be made between the employee and his family in this respect. In accordance with the directions given in paragraph 17.7 supra, this demand is granted.

17.9 Then there is the demand relating to the medical facilities given by the Bank when an employee or a member of his family has to undergo treatment as an in-patient in a hospital. The Bank has made arrangements with Government or Municipal Hospitals in certain centres for reservation of a specified number of beds for use by its employees. All the charges of treatment covered by this arrangement are paid by the Bank. But where the employee undergoes treatment in any other Government or Municipal hosptial, the Bank reimburses only the charges payable in a General Ward or the lowest paying bed in such hospitals. The employees and the members of their families are also permitted to take indoor treatment in any public or private hospital or nursing home of their choice with the prior approval of the Medical Officer of the Bank. But here also the charges reimbursable would be what is payable in a Government/Municipal Hospital. Special nursing charges, charges for engaging attendants and ward boys are also reimbursed when the approval of the Bank's Medical Officer is

1960 II L.L.J. 716] after referring to its earlier decision in Guest, Keen Williams case, (AIR 1959 S.C. 1279, 1959 II L.L.J. 405), the Supreme Court again observed: "It is generally recognised in industrial adjudication that where an employer adopts a fair and reasonable pension scheme that would play an important part in fixing the age of retirement at a comparatively earlier stage". Again in the Workmen of Jessop & Company's case (1964 I L.L.J. 451 at 435), the Supreme Court after referring *inter alia* to the retirement benefits in the Company held that they were not such that the age of retirement must be kept at 55 and that taking into account what prevails in similar concerns, the age should be raised to 58. Then we come to the decision in Talang (G.M.) *Vs.* Shaw Wallace & Co. Ltd. (AIR 1964 S.C. 1886, 1964 II LLJ. 644). Therein adverting to the industry-*cum*-region principle, the Supreme Court observed: "In an earlier decision of this Court in Dunlop Rubber Company, Ltd. *Vs.* Its workmen (AIR 1960 S.C. 207, 1959 II L.L.J. 826) it had been urged that the employer was an all-India concern and that changing the terms and conditions of service in regard to the age of retirement in one place might unsettle the uniformity and might have serious repercussions in other branches. The Court pointed out that though this was a relevant consideration, its effect had to be judged in the light of other material and relavant circumstances, and that one of the important material considerations in this connection would be that the age of retirement can be and often is determined on industry-*cum*-region basis," and finally it was held that "the awards and agreements on the question of age of retirement.. clearly show a consistent trend in the Bombay region to fix the retirement age of clerical and subordinate staff at 60." In the British Paints case [1966 (2) S.C.R. 523, A.I.R. 1966 S.C. 732, 1966 I L.L.J. 407], which arose from Calcutta, the Company had no provision relation to retirement age and the Supreme Court held that having regard to the general improvement in the standard of health of the country, the fixation of the age of retirement at 60 was reasonable, under the circumstances. In Hindustan Antibiotics case (AIR 1967 S.C. 948. 1967 I L.L.J. 114), which arose from the Poona region, the question was whether a provision giving a discretion to the employer to continue the services of a workman after the age of 58 was reasonable. The Supreme Court held that such an arbitrary power was liable to abuse and that it would be reasonable to fix the age of retirement at 60.

18.4 The result of the above authorities may thus be stated: Of the several relevant factors to be taken into account in fixing the age of retirement, the industry-*cum*-region principle is one of the most important. The weight to be given to it in an all-India concern, however, depends on the other factors and considerations. Another important factor to be taken into account is the existence of a scheme of superannuation benefits. Where it is liberal, that will be a ground for not raising the age. On an ultimate analysis, a decision on the question must turn on the facts and circumstances of each case.

18.5 What then are the facts of this case? We start with this that in the Bombay region, the age of retirement for workmen is in general 60 and that has been adopted by the commercial banks. As against this, the contention of the Bank is that it is not in the same situation as the commercial banks, that its business activities and service conditions are more akin to those in the Central Government and that it is the rules in Government service that would be more appropriate and not those in commercial banks. It has been already pointed out that though the Reserve Bank does carry on banking business, its main and substantial work is sovereign in character. Even its banking activities are not comparable with those of commercial banks. Its customers are not members of public, but Central and State Governments, public bodies, commercial banks and the like. Apart from this, it is under a duty to secure monetary stability and has to take decisions on policies of an all-India character. Moreover its business is largely bound up with the work of the Government and this has led to the recruitment of a large number of temporary hands, as for example, in the implementation of Compulsory Deposit Scheme, Annuity Deposit scheme and the like. The commercial banks have not, it is urged, to face the problem of recruitment of a large number of temporary staff which the Reserve Bank has to do in carrying out the Government policies and it is argued that the unions are rather inconsistent in demanding at one breath that temporary hands should be made permanent within a year and at the same time claiming that the age of retirement should be raised to 60.

18.6 It is further pointed out that with a view to reduce unemployment, the Central Government has lately been adopting the policy of not raising the age of retirement. To continue the employees in service till the age of 60, it is said, would block the entry into service of new recruits and that further it would delay the chances of confirmation of temporary employees. It is said that with a view to avoid such results, many State Governments, such as, Kerala, Madhya

Pradesh, Orissa and Rajasthan, have reduced the age of retirement to 55. It is accordingly contended that whether we have regard to the character of the functions of the Reserve Bank or the problem of confirmation of a large army of temporary employees, the provisions of the Bipartite Settlement do not furnish a proper precedent. It is also argued that even apart from the above considerations, the superannuation benefits offered by the Bank are generous and liberal and that that would itself be a sufficient ground for not raising the age of retirement.

18.7 As for the industry-*cum*-region principle, the argument on behalf of the Bank is that that principle would be applicable primarily to concerns engaged in production of goods and not to banking industry. Dealing with this aspect, the Desai Award (Commercial Banks) observed: "The principle of industry-*cum*-region basis which has usually been applied by industrial Tribunals is not one which could be applied to an industry like banking where most of the large banks have branches throughout the country. The region-wise approach was considered and dropped by previous Tribunals in dealing with the industry of banking (Paragraph 4.166). It is further argued that this is only one of the factors to be taken into account and can in any case have no application to the Reserve Bank, which is aquasi-Governmental institution, all-India in its character. Having considered the contentions of all the parties I am of the opinion that in view of the special position occupied by the Reserve Bank as distinct from commercial banks and the liberal character of its superannuation benefits, there is no ground for raising the age of retirement.

18.8 I shall now deal with the other demands. One is that the power now possessed by the Bank to terminate the services of an employee on his completing 30 years of service, or attaining the age of 50, should be taken away. The contention on behalf of the unions in support of this demand is that this power might be used by the Bank arbitrarily for victimising the employees and the decision in the Hindustan Antibiotics case (A.I.R. 1967 S.C. 948, 1967 I L.L.J. 114) has been relied on in support of this. But this provision in the Reserve Bank is modelled on similiar rules in Government service and has been adopted, also, by the commercial banks. There is no contention before me that this provision is unconstitutional. The Supreme Court has held that such provisions are valid. (See Shyamlal *Vs.* State of Uttar Pradesh [1955(1) S.C.R. 26, A.I.R. 1954 S.C. 369, 1954 II L.LJ. 139], In State Bombay *vs.* Saubhag Chand M. Doshi (1958 S.C.R. 571, A.I.R. 1957 S.C. 392) the Supreme Court pointed out the distinction between an order of dismissal or removal on the one hand and an order of compulsory retirement on the other. It was held that as the former order involved the loss of benefits earned by the employee it would amount to a punishment and would fall within Article 311(2) of the Constitution. But that the latter did not involve any penal consequences and would therefore be valid. It was further observed: "It should be added that questions of the said character could arise only when the rules fix both an age of superannuation and an age for compulsory retirement and the services of a civil servant are terminated between these two points of time. But where there is no rule fixing the age of compulsory retirement, or if there is one and the servant is retired before the age prescribed therein, then that can be regarded only as dismissal or removal within Article 311(2)." In Moti Ram Deka *Vs.* General Manager, North Eastern Railway [1964 (5) S.C.R. 683, A.I.R. 1964 S.C. 600 at 617, 1964 II LLJ 467 at 488] this view was reaffirmed by the majority of the Supreme Court. The provision now under consideration is on the same lines as the rules considered in the above decisions and on the principles laid down therein must be upheld as valid. In the decision in Hindustan Antibiotics Ltd. *Vs.* Its workmen (A.I.R. 1967 S.C. 948, 1967 I L.L.J. 114), the age of superannuation was fixed at 58 and an option was given to the management to continue the services of employees for a further period at their discretion. It was this that was struck down as arbitrary. There was no question in that case as to the validity of a clause conferring on the management power to terminate the services of an employee after a specified period of service but before the age of superannuation fixed by the rules.

18.9 Another demand of the unions is that employees who have rendered War service should be allowed to continue in service for a further period commensurate with their service in War. It is now 22 years since the Second World War has ended and this question is, therefore, of no practical importance. The Bank, it is stated, is liberal in recruiting such persons to service and no further provision is called for.

18.10 It remains to deal with one other feature in the existing scheme of retirement. There is a provision that Class IV employees could accumulate six

(*vide* Exhibit B-141). 'Emoluments' for this purpose includes in addition to pay, what is called dearness pay (appropriate to pay) which works out at roughly fifty per cent of the dearness allowance. Coming next to the commercial banks, the contribution has to be at 8⅓ per cent of pay. 'Pay' for this purpose does not include dearness allowance. Under the Desai Award the subscription by the employee was only on 80 per cent of pay. But under the Bipartite Settlement it must be on the entire basic pay. There would be a matching contribution by the bank.

19.8. Now it has been argued on behalf of the unions that dearness allowance also should be included in pay as is done in Government service and the Employees' Provident Funds Act, 1952. But the Bank contends that it would not be a correct approach to compare the several provisions in the scheme in isolation and that regard must be had to the extent of the total emoluments available under the scheme as a whole and that, so viewed, the provisions in the Bank compare favourably with those elsewhere. The correctness of this contention is disputed by the Unions. They have filed Exhibits A-126, A-129 and F-51 to show the comparative position in the Reserve Bank and in other concerns as regards the extent of contribution to Provident Fund. On the basis of these documents, it is said, that the benefits available to an employee in the Bank are less than those available in the other banks and in commercial concerns. Exhibit B-143 is the reply of the Bank. It is therein stated that in fact the contributions in the Reserve Bank would be more than in 'A' Class banks if due regard is had to the spans and special pay.

19.9. Considering the question whether dearness allowance could be taken into account in framing a retiring scheme, the Second Pay Commission has observed: "The dearness allowance being in the nature of a temporary compensation should not ordinarily influence retirement benefits. If dearness allowance were to be taken into account in calculating pension, it might well happen that an employee who retired in a year of high prices would get throughout life a higher pension than one who retired after a period of lower prices. It is true that the present apportionment of emoluments between pay and dearness allowance provides, in the context of retirement benefits, reasonable ground for complaint; but once the basic pay is fixed with reference to a higher level of prices the cause for grievance should largely disappear" (para. 21, page 450). These observations would appear to be particularly opposite in the context of the substantial increase in the basic wages under the present revision of the pay scales.

19.10. Comparing now the position in the Reserve Bank with that in commercial banks under the Bipartite Settlement, it will be seen that while the employee can subscribe upto 10 per cent. of the 'pay' in the Reserve Bank, that is limited to 8⅓ per cent in the commercial banks. But, as against this, which in the Reserve Bank the contribution is only on 90 per cent. of 'pay', in the commercial banks it is on the entire 'pay'. Whatever the position if the matter had stood there, it is decidedly more favourable in the Reserve Bank under the revised pay scale which has been laid down herein. The demand of the Organisation that the employee should be free to subscribe above the 10 per cent. of the salary and that the Bank should make a matching contribution, is in my opinion, extravagant and cannot be granted.

19.11. The next question is as regards the rate of interest that should be allowed on the amounts subscribed by the employee. As already stated, that depends on the redemption yield of the Government of India rupee securities and that varies from year to year. For the year, 1967-68, it is 5½ per cent. In commercial banks the contributions are invested in accordance with the provisions of the Trusts Act. There is therefore no basis for comparison. In Central Government the rate is determined by the Government from time to time. The Association has filed Exhibit A-127 giving the rate of interest in certain commercial concerns and banks. That varies from 6 to 6¾ per cent. Now the demand of the Association is that the rate of interest allowable should be one per cent. above the Bank Rate while the Federation demands that it should be seven per cent. In my opinion, no change is required in the present provision.

19.12. Then there is the question as to when the employee becomes eligible to avail himself of the Bank's contribution. Under the rule as it stands the employee should complete 5 years of permanent service before he can become eligible for the Bank's contribution. Now the demand is that it is sufficient that the employee has put in a continuous service for five years, whether temporary or permanent. In Central Government service also, there is a rule that if the subscriber resigns his employment within five years of the commencement thereof, he would not be entitled to contribution from the Government. It appears that temporary service

is also included within this period of five years. In my opinion, while the employee should become eligible for the Bank's contribution to the Provident Fund only if he is made permanent, the period of five years of continuous service must include also the period of his temporary service.

19.13. Then there is the demand of the Organisation that the limit of advance allowable on the Provident Fund should be raised. It is claimed that the employee should be entitled to take advances upto the limit of Rs. 10,000/-. The present rule is that the Bank could grant, in its discretion, an advance, normally, of a sum not exceeding three months' pay and in no case exceeding the subscriptions made by an employee. In view of the fact that the whole object of the Provident Fund scheme is to enable the employee to lay by a portion of his savings as part of a scheme of retirement benefit, the rule as it stands is quite reasonable. Then there is the claim of the Association that employees should be permitted to pay insurance premium from Provident Fund balance. It is stated on behalf of the Bank that the amount subscribed by the employee to his Provident Fund are now made available for payment of premium on a policy of Life Insurance when the insurance is effected under a scheme approved by the Bank. At present the policies taken out under Post Office Insurance Fund and those issued by the Life Insurance Corporation of India have been approved by the Bank. As the business of life insurance has now become nationalised, this question is of no practical importance and no further provision, besides what is now observed by the Bank, appears to be necessary.

Gratuity:

19.14. This is now governed by the Reserve Bank of India (Payment of Gratuity to Employees) Rules, 1947. It may be noted that they have not been framed under Section 58 of the Reserve Bank of India Act, 1934 and therefore, there is no question as to my jurisdiction to deal with this matter. The rules in so far as they are relevant for the present enquiry are as follows: (i) Gratuity is admissible to a permanent employee after termination of his service in the Bank at the rate of one month's pay for each completed year of service subject to a maximum of fifteen months' pay or Rs. 25,000/-, whichever is less. 'Pay' means for this purpose, 90 per cent. of the basic pay, and special pay. Where the employee has been in service for a period in excess of 30 years, he is paid additional Gratuity at half a month's pay in respect of each completed year. Where the employee dies before receipt of his Gratuity, the amount will be paid to the persons entitled to his Provident Fund as nominees. (ii) The employee should have completed a minimum period of ten years' service before he becomes eligible for Gratuity. Under certain circumstances specified in the rule, the employee would be eligible for Gratuity even if he had not completed ten years' service.

19.15. The demand of the Association is that the Gratuity should be paid on the entire basic pay, officiating pay, and dearness allowance, that it should be at the rate of one month for each completed year of service, without ceiling and without tapering, and that, it should be admissible to an employee on completion of five years of service including temporary service. The Federation demands that the employee should be entitled to Gratuity even when he is dismissed from service except in case of financial loss to the Bank. The Organisation demands that 'pay' for the purpose of this rule should include the average of a month's dearness allowance for the year preceding the date of retirement, that Gratuity should be payable upto a limit of 20 months or Rs. 35,000/-, whichever is less and that it should be payable after three years of service including temporary service.

19.16. The first question that has to be determined is whether 'pay' for the purpose of Gratuity should include dearness allowance also. This point has been already considered in connection with the similar demand with respect to Provident Fund. The observations in the Report of the Second Pay Commission which have been quoted therein would apply with even greater force to the claim for Gratuity. In British India Corporation *Vs.* Its workmen (1965 II L.L.J. 556) the contention was put forward that Gratuity should be reckoned on the basis of the basic wages and not on the consolidated wages and it was pointed out that that was the trend of the decisions of the industrial courts. The Supreme Court recognised that there was *prima facie* force in this argument but declined to interfere on the ground that the Tribunal had not introduced this provision but had merely adopted the pre-existing one. This question came up for elaborate consideration by the Supreme Court in the case of British Paints (India) Ltd. *Vs.* Its workmen [1966(2) S.C.R. 523 A.I.R. 1966 S.C. 732, 1966 I L.L.J. 407]. There the Tribunal had directed that dearness allowance also should be taken into account in calculating Gratuity. The

to see any ground for making any distinction between the two. I decide that "special pay" for the purpose of this provision must be the same as in the Provident Fund Regulations.

19.18. The next demand relates to the quantum of Gratuity. In the Reserve Bank under the rule as it now stands, Gratuity is admissible at a rate equal to one month's 'pay' for each completed year of service subject to a maximum of 15 months' 'pay' or Rs. 25,000/-, whichever is less, and in respect of each completed year of service, in excess of 30 years, a sum equal to half a month's 'pay' is admissible. The demand of the Association and the Federation is that Gratuity should be admissible at the rate of one month's emoluments for each year without ceiling while the Organisation has asked for the raising of the present limit to 20 months or Rs. 35,000/-, whichever is less. The rule in Government service is that Gratuity is admissible at 1/4th of the monthly emoluments for each completed six months' period subject to a maximum of 15 times the monthly emoluments, and to a ceiling of Rs. 24,000/-. As regards commercial concerns, in the case of the Army and Navy Stores (1951 II L.L.J. 31), the scheme provided for the grant of Gratuity at the rate of half a month's salary or wages for each year of continuous service without any ceiling. This is the pattern generally adopted in commercial concerns and as observed by the Supreme Court in Indian Hume Pipe Co. *Vs.* Its workmen [1960(2) S.C.R. 32, A.I.R. 1960 S.C. 251 at 254, 1959 II L.L.J. 830 at 833], it has served as a model scheme in all subsequent disputes about Gratuity. The commercial banks, however, have adopted a different pattern. The Sastry Tribunal awarded Gratuity at one month's 'pay' for each year of service subject to a maximum of 15 months' 'pay', and an additional Gratuity of half a month's 'pay' for each year of service in excess of thirty years. On appeal, the Labour Appellate Tribunal confirmed this, after referring to the Army and Navy Stores case (1951 II L.L.J. 31), and this is the scheme which has remained in force all along. It should, however, be mentioned that recently under an agreement entered into between the State Bank of India and its workmen, a provision has been made that in the case of the death of an employee between the years 16 to 30, an additional compassionate Gratuity should be paid at the rate of 1/4th month's pay for each year of service.

19.19. As against the schemes generally in force in the commercial banks, the unions rely on the schemes adopted by the commercial firms. Exhibits A-128 and F-52 have been filed for showing that the amount of Gratuity given in the commercial concerns is, by and large, more than in commercial banks. In view of this it becomes necessary to examine the basis on which a Gratuity scheme has to be framed. In the case of Garment Cleaning Works *Vs.* Its workmen [1962(1) S.C.R. 711, A.I.R. 1962 S.C. 673 at 674, 1961 I L.L.J. 513 at 515] this question was considered by the Supreme Court and it was observed:

> "In regard to the direction as to the gratuity scheme the argument which has been urged before us by Mr. Sen is that the problem of starting such a scheme should have been considered on an industry-*cum*-region basis and considerations relevant to the said basis should have been taken into account. In support of this argument he has relied upon the judgment of this Court in Bharatkhand Textile Manufacturing Company Ltd., and others *Vs.* Textile Labour Association, Ahmedabad [1960(3) S.C.R. 329, A.I.R. 1960 S.C. 833, 1960 II L.L.J. 21]. In that case the industrial court had no doubt dealt with a claim for gratuity made by the workmen on the industry-*cum*-region basis, and an attack against the validity of the said approach made by the employer in regard to the scheme was repelled by this Court. It would, however, be noticed that all that this Court decided in that case was that it was erroneous to contend that a gratuity scheme could never be based on industry-*cum*-region basis, and in support of this conclusion several considerations were set forth in the judgments. It is clear that it is one thing to hold that the gratuity scheme can, in a proper case, be framed on industry-*cum*-region basis, and another thing to say that industry-*cum*-region basis is the only basis on which gratuity scheme can be framed. In fact, in a large majority of cases gratuity schemes are drafted on the basis of the units and it has never been suggested or held that such schemes are not permissible."

Again in the case of British India Corporation *Vs.* Its workmen (1965 II L.L.J. 556 at 557), the Supreme Court restated the same principle in the following terms: "It is, therefore, clear that the true legal position in regard to gratuity schemes is that though it is permissible and would be legitimate to frame such a scheme on industry-*cum*-region basis, it does not follow that a gratuity scheme cannot be

framed in respect of a single unit of an industrial undertaking." Thus, it is open to the commercial concerns to adopt a Gratuity scheme either based on industry-*cum*-region principle or unit basis. A perusal of Exhibits A-128 and F-52 suggests that the Gratuity schemes in many of the concerns were on industry-*cum*-region basis and that that is why there is no uniformity in their scope. But in the case of banks of an all-India character the more appropriate principle would be the adoption of the unit basis. In fact all the commercial banks have adopted a scheme which is identical and I do not see any sufficient ground to substitute a different one. The scheme now in force in the Reserve Bank is in accord with what obtains in the 'A' Class commercial banks and I am of the opinion that no change is required.

19.20. The next question relates to the eligibility of an employee for Gratuity if he voluntarily resigns before ten years. Under the rule as it now stands, he is not in such cases entitled to Gratuity. Now the demand of the unions is that Gratuity should become payable even in those cases if the employee has completed five years of service. The question whether an employee who resigns before completing ten years of service should be entitled to Gratuity has been the subject of consideration by the Supreme Court in several cases. In the case of British Paints (India) Ltd. *Vs.* Its workmen [1966(2) S.C.R. 23, A.I.R. 1966 S.C. 732, 1966 I L.L.J. 407 at 410] discussing this question that Court observed:

> "The management objects to the minimum period being five years in the case of voluntary retirement or resignation before reaching the age of superannuation. It is contended that gratuity schemes usually provide for a longer minimum of service in the case of voluntary retirement or resignation before reaching the age of superannuation. We think that there is substance in this contention. The reason for providing a longer minimum period for earning gratuity in the case of voluntary retirement or resignation is to see that workmen do not leave one concern after another after putting the short minimum service qualifying for gratuity. A longer minimum in the case of voluntary retirement or resignation makes it more probable that the workmen would stick to the company where they are working. That is why gratuity schemes usually provide for a longer minimum in the case of voluntary retirement or resignation. We may in this connexion refer to Express Newspapers (Private) Ltd. *Vs.* Union of India (1959 S.C.R. 12 at 158, A.I.R. 1958 S.C. 578 at 629, 1961 I L.L.J. 339 at 398) where a short minimum for voluntary retirement or resignation was struck down. Again, in Garment Cleaning Works *Vs.* Its workmen [1962 (1) S.C.R. 711 at 714, A.I.R. 1962 S.C. 673 at 675, 1961 I L.L.J. 513 at 515], ten years minimum was prescribed to enable an employee to claim gratuity if he resigned. In Wenger & Co. *Vs.* Their Workmen (A.I.R. 1964 S. C. 864, 1963 II L.L.J. 403), a distinction was made between termination of service by the employer and termination resulting from resignation given by an employee. In the first case the minimum was fixed at five years; in the second, the minimum period was fixed at ten years by this Court.
>
> We, therefore, modify the gratuity scheme in this regard and order that in the case of voluntary retirement or resignation by an employee before reaching the age of superannuation, the minimum period of qualifying service for gratuity should be ten years and not five years as prescribed by the tribunal."

This view has again been affirmed in the case of Calcutta Insurance Co. Ltd. *Vs.* Their workmen (A.I.R. 1967 S.C. 1286, 1967 II L.L.J. 1). In view of these decisions the question must be taken to be concluded. I, therefore, hold that an employee who resigns before completing ten years of service is not entitled to Gratuity.

19.21. Lastly, the Bank has made a demand that where an employee is dismissed for misconduct before he has completed the minimum number of years of qualifying service, no Gratuity should be payable to him. The rule in the Bank as it originally stood was that no Gratuity was payable to an employee dismissed for misconduct, whatever be the number of years of service put in by him. The validity of this provision was challenged before the Desai Tribunal but without success. When that decision was taken in appeal to the Supreme Court a contention was put forward on behalf of the employees that even when an employee was dismissed for misconduct he should be entitled to payment of Gratuity subject to

the deduction of the amount of loss, if any, sustained by the Bank by reason of such misconduct. Dealing with this contention, the Supreme Court observed: (A.I.R. 1966 S.C. 305 at 321, 1965 II L.L.J. 175 at 196), "The Reserve Bank did not, however, pursue the argument before us perhaps in view of the later decisions of this Court in the Garment Cleaning Works *Vs.* Its Workmen [1962(1) S.C.R. 711, A.I.R. 1962 S.C. 673, 1961 I L.L.J. 513], Greaves Cotton & Company Ltd., and others *Vs.* Their workmen (A.I.R. 1964 S.C. 689, 1964 I L.L.J. 342), and Burhanpur Tapti Mills, Ltd., *Vs.* Burhanpur Tapti Mills Mazdoor Sangh (A.I.R. 1965 S.C. 839, 1965 I L.L.J. 453). In these cases it was held by this Court that gratuity is not a gift but is earned, and forfeiture except to recoup a loss occasioned to the establishment, is not justified. Sri Palkhivala undertook to get the rules brought in line with the decisions of this Court." Pursuant to this undertaking, the Reserve Bank modified its rule as follows:

> "The Bank may, while determining the amount of Gratuity payable to an employee, take into account any financial loss caused to the Bank by reason of the inefficiency or misconduct of such employee, and grant a reduced amount of gratuity:
>
> Provided that the difference between the amount of gratuity ordinarily admissible under the foregoing Rules and the amount of gratuity so reduced shall not exceed the amount of the financial loss caused to the Bank." [*Vide* Rule 6A(1) of Reserve Bank of India (Payment of Gratuity to Employees) Rules, 1947].

Subsequently, the question came up for consideration before the Supreme Court in the case of Calcutta Insurance Co. Ltd. *Vs.* Their workmen (A.I.R. 1967 S.C. 1286, 1967 II L.L.J. 1) and therein it has been held, following the observations in the *Express* Newspaper's case (1959 S.C.R. 12, A.I.R. 1958 S.C. 578, 1961 I L.L.J. 339), that Gratuity is a reward for meritorious conduct of an employee all through his service and that therefore if before the qualifying period he is dismissed for misconduct, he would be disentitled to the same. Now the demand of the Bank is that a direction should be given in terms of this decision. Whatever be the force of this contention, the decisive fact is that the present rule has been framed by the Bank in pursuance of an undertaking given before the Supreme Court. It must, therefore, stand.

CHAPTER XX

Miscellaneous

Retrospective Operation:

20.1. Sub-Section (1) read with Sub-Section (4) of Section 17A of the Industrial Disputes Act, 1947, provides that an Award (including an Arbitration Award) shall come into operation with effect from such date as may be specified therein, but where no date is so specified, it shall come into operation on the date when the Award becomes enforceable. On the scope of this provision, the Supreme Court observed in *Hindustan Times Vs.* Their workmen [1964 (1) S.C.R. 234, A.I.R. 1963 S.C. 1332 at 1342, 1962 I L.L.J. 108 at 119]: "Even without a specific reference being made on this question it is open to an Industrial Tribunal to fix in its discretion a date from which it shall come into operation". I shall now proceed to give directions as to when the Award shall come into operation.

20.2. There was, prior to the reference to the arbitration, a correspondence, between the Bank and the Association in which they agreed as one of the terms for submitting to the arbitration that "the Bank will give effect to the scales of pay and allowances as may be awarded by the Arbitrator with effect from 1st January 1966" (*vide* Ex. A-144). It was after this that the agreement was drawn up setting out the points of reference. Full effect must, of course, be given to this agreement. But, there is a dispute between the parties as to what is meant by the expression "scales of pay and allowances". The contention of the Bank is that by the word "allowances", it was meant only to include the allowances which would form part of the emoluments of an employee and that would take in basic pay, special pay, officiating pay, dearness allowance, house rent allowance and family allowance, but not the other allowances. The only point for decision is whether allowances other than the above should also be held to be covered by the agreement. They are Travelling and Halting Allowances, Hill

and Fuel Allowances, Overtime Allowance, Subsistence Allowance during the period of suspension pending enquiries against the employees, and Medical Expenses. Apart from the agreement, I should have had no difficulty in holding that the above allowances should, excepting Hill Allowance and Fuel Allowance, be granted only from the date of the coming into force of this Award. So far as Hill and Fuel Allowances are concerned, they are fixed allowances and there should be no difficulty in granting them retrospectively. But the other allowances are indeterminate and their fixation *ex post facto* after lapse of time must lead to practical difficulties. In the Desai Award, these allowances are not given retrospective operation. Though it is not relevant for this purpose, the provisions of the Bipartite Settlement also do not give retrospective operation to these provisions excepting Medical aid and expenses. As to this, it mus be noted that it is limited under the said Settlement to a fixed amount and therefore not much of an inconvenience would be caused. Construing the expression "pay and allowances", with the above background, I am of opinion that by the expression "allowances" the parties meant only those allowances which are usually taken into account for comparing the total emoluments and not indefinite allowances. I, therefore, direct that the provisions of this Award relating to Scales of pay and Special Pay, Officiating Pay, Family Allowance, Dearness Allowance, House Rent Allowance, Hill and Fuel Allowances are to have retrospective operation from 1st January 1966 and that the other provisions, from the day, this Award becomes enforceable.

Costs:

20.3. There is a claim by the Federation for an order for costs in its favour. It was not put forward during the arguments and has been preferred subsequent thereto. This is, it should be remembered, an arbitration under Section 10A of the Industrial Disputes Act, 1947. The usual practice in such cases is for the parties to provide how the costs of the proceedings should be borne by them. Section 10A(5) provides that nothing in the Arbitration Act, 1940 shall apply to arbitration under that Section. Under the circumstances, it seems very doubtful whether the claim could legally be sustained. The question was not argued and I do not propose to express any opinion on it as I consider that no order for costs should be made in the circumstances of this case. It may be noted that even in proceedings before Labour Court, Tribunal or National Tribunal the usual practice is not to award costs unless there are special circumstances (*vide* Sastry Award, page 170, para. 629). The Desai Tribunal considered the question of costs both in the commercial banks reference (page 301, para. 24.2) and the Reserve Bank reference (page 134, para. 30.1) and directed that there shall be no order as to costs. The present application for costs is made by a party who had intervened in the proceedings under Section 10A(3A) of the Industrial Disputes Act, 1947. This is not a fit case where I should order any costs.

Acknowledgements:

20.4. Before concluding I must acknowledge the valuable assistance given to me by Counsel, Solicitors, Advocates and Representatives of the parties. The case was argued ably and fully and in an atmosphere congenial to the judicious determination of the points in controversy. I should also express my appreciation of the Secretarial arrangements made by the Bank and to the unstinting help given by the staff. I should make particular mention of Shri R. KRISHNAN, Legal Officer of the Bank who functioned as my Secretary and brought to bear a commendable knowledge of law in the preparation of the case and spared no pains to collect all the materials. His notes on the several topics which came in for discussion were exhaustive and accurate. I should also commend on the work of Shri K. RAMACHANDRAN, my Personal Assistant, who did very strenuous work with ability and with cheer. Both Shri R. Krishnan and Shri K. Ramachandran worked hard on all days including Sundays and holidays.

Sd./- T. L. VENKATARAMA AIYAR,
Retired Supreme Court Judge,
Arbitrator.

'Sri Vidya Vilas',
81, Mowbray's Road,
Alwarpet, Madras-18.
12th Feb. 1968.

APPENDIX 'A'

NOTIFICATION

New Delhi, the 15th February 1967

S.O. 645.—Whereas an industrial dispute exists between the employers in relation to the Reserve Bank of India and their workmen represented by the All India Reserve Bank Employees' Association.

And, whereas the said employers and workmen have, under sub-section (1) of section 10A of the Industrial Disputes Act 1947 (14 of 1947), agreed to refer the dispute to arbitration by arbitration agreement and have forwarded to the Central Government under sub-section (3) of the said Act a copy of the said arbitration agreement;

Now, therefore, in pursuance of sub-section (3) of section 10A of the said Act, the Central Government hereby publishes the said arbitration agreement which was received by it on the 31st January, 1967.

Agreement

(Under Section 10A of the Industrial Disputes Act, 1947)

BETWEEN

Name of Parties

Representing the employers.—The Management of the Reserve Bank of India, Central Office, Fort Bombay-1

AND

Representing workmen.—The All India Reserve Bank Employees' Association, c/o Reserve Bank of India, Parliament Street, New Delhi.

It is hereby agreed between the parties to refer the following industrial dispute to the arbitration of Shri T. L. Venkatarama Aiyar, Retired Judge of Supreme Court of India, 'Sri Vidya Vilas', 81, Mowbray's Road, Alwarpet, Madras-18.

(*i*) Specific matters in dispute	As in Appendix.
(*ii*) Details of the parties to the dispute including the name and address of the establishment or undertaking involved.	(*a*) Reserve Bank of India, Central Office, Fort, Bombay.1. (*b*) Workmen other than Class IV employed in the Reserve Bank of India.
(*iii*) Name of the Union, if any representing the workmen in question	All India Reserve Bank Employees' Association, c/o Reserve Bank of India, Parliament Street, New Delhi.
(*iv*) Total Number of workmen employed in the undertaking affected or likely to be affected.	14,987
(*v*) Estimated number of workmen affected of likely to be affected by the dispute	11,107

The arbitrator shall make his award within a period of three months from the date of the publication of this Agreement in the official Gazette under sub-section (3) of Section 10A of the Industrial Disputes Act, 1947, or within such further time as is extended by mutual agreement between us in writing. In case

the award is not made within the period aforementioned, the reference to arbitration shall stand automatically cancelled and we shall be free to negotiate for fresh arbitration.

Dated this 24th day of January, 1967 at Bombay.

Signature of the parties.

Representing employers . . . . D. N. MALUSTE, Chief Manager, Reserve Bank of India, Central Office, Bombay-1.

Representing workmen . . . . H. L. PARVANA, General Secretary, All India Reserve Bank Employees' Association c/o Reserve Bank of India, Parliament Street, New Delhi.

Witnesses:

(1) R. P. DONDE,
C/o Reserve Bank of India,
Department of Banking Operations & Development, Bombay.

(2) C. D. N. MUDALIAR,
c/o Reserve Bank of India,
Central Office,
Department of Administration & Personnel, Bombay.

ANNEXURE

(Specific matters in dispute to be referred to arbitration)

1. Scales of pay and special pay.
2. Method of adjustment in scales of pay.
3. Grant of increments or special pay or honoraria for graduates or for completing the Institute of Bankers' Examination or for National/Government Diploma in Commerce or for optional subjects in the Institute of Bankers' Examination and Hindi Examinations.
4. Family Allowance.
5. Dearness Allowance.
6. House Rent Allowance, Travelling and Halting Allowances, and Officiating Allowance.
7. Hill and Fuel Allowances for Staff at Srinagar.
8. Emergency Allowance for Staff at Gauhati.
9. Hours of work and overtime.
10. Confirmation of temporary workmen.
11. Procedure for the termination of employment and taking other disciplinary action
12. Subsistence Allowance during the period of suspension.
13. Leave Rules.
14. Leave Fare Concession.
15. Medical aid and expenses.
16. Age of Retirement.
17. Provident Fund, Gratuity, Pension.

D. N. MALUSTE,
Chief Manager,
Reserve Bank of India,
Central Office,
Bombay-1.

H. L. PARVANA,
General Secretary,
All-India Reserve Bank Employees' Association,
C/o Reserve Bank of India,
Parliament Street,
New Delhi.

[No. 55(43)/66-LR.IV.]

APPENDIX 'B'

NOTIFICATION

New Delhi, the 25th February 1967

S.O. 689.—Whereas an industrial dispute exists between the maangement of the Reserve Bank of India (hereinafter referred to as the said bank) and their workmen represented by the All-India Reserv Bank Employes' Association (hereinafter referred to as the said association);

And whereas the said bank and the said association have, by a writen agreement in pursuanccn of the provisions of sub-section (1) of section 10A of the Industrial Disputes Act, 1947 (14 of 1947) agreed to refer the said dispute to arbitration of the person mentioned therein, and a copy of the said arbitration agreement has been forwarded to the Central Government and the same has been published, under the provisions of sub-section (3) of the said section, with the order of the Government of India in the Ministry of Labour, Employment and Rehabilitation No. S.O. 645 dated the 15th February 1967 published in Part II, Section 3, Sub-section (ii) of the Gazette of India dated the 25th February, 1967, at pages 466 to 488;

And whereas the Central Government is satisfied that the persons making the said reference represent the majority of the party;

Now, threfore, in pursuance of the provisions of sub-section (3A) of the said section, read with rule 8A of the Industrial Disputes (Central Rules) 1967, the Central Government hereby notifies for the information of the employers and workmen who are not parties to the said arbitration agreement but who are concerned in the said dispute, that the person making the said reference represented th majority of each party.

[No. F. 55(43)/66-LRIV.]

N. N. CHATTERJEE, Jt. Secy.

APPENDIX C

Expenditure per Consumption unit of a Middle Class Family in the Centres where the Reserve Bank of India has its offices.

PART I—IN THE INCOME GROUP OF Rs. 150-500.

Income Range	BOMBAY			CALCUTTA			DELHI—NEW DELHI			MADRAS		
	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage
		Rs.			Rs.			Rs.			Rs.	
150-200 . .	3·1	205·36	15·98	4·0	185·32	16·63	4·0	213·94	19·72	4·4	224·82	18·63
200-300 . .	4·2	279·14	27·45	5·0	261·11	22·45	4·9	281·91	25·24	4·8	277·58	21·22
300-500 .	5·1	404·57	26·41	6·0	396·85	21·41	5·6	402·13	24·67	5·6	408·48	18·44
Expenditure per consumption unit		72·21			56·77			62·38			61·34	

Income Range	BANGALORE			KANPUR			HYDERABAD-SECUNDERABAD			AHMEDABAD		
	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage
Rs.		Rs.			Rs.			Rs.			Rs.	
150-200 . .	4·7	200·54	17·99	5·0	209·81	21·15	5·4	212·12	16·53	5·1	228·31	21·04
200-300 . .	5·3	274·33	21·39	5·9	282·03	17·42	5·8	255·72	20·70	5·5	290·81	28·33
300-500 . .	6·8	349·75	14·59	6·1	359·94	11·51	7·0	399·22	10·69	6·3	385·71	14·87
Expenditure per consumption unit		49·06			48·71			45·99			52·63	

Income Range	NAGPUR			JAIPUR			GAUHATI			PATNA		
	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage
Rs.		Rs.			Rs.			Rs.			Rs.	
150-200 .	4·8	228·56	20·92	4·6	247·71	19·11	2·4	198·53	18·69	4·0	219·92	15·46
200-300 . .	5·4	292·98	22·69	5·1	300·02	19·48	4·7	284·92	16·51	5·0	281·00	19·55
300-500 . .	5·7	411·29	15·76	6·3	441·82	12·06	6·1	410·28	13·71	7·0	444·50	12·29
Expenditure per consumption unit		57·26			60·43			68·12			58·45	

Income Range	INDORE			CUTTACK-BHUBANESHWAR			SRINAGAR			TRIVANDRUM		
	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage
Rs.		Rs.			Rs.			R.			Rs.	
150-200 . .	5·6	225·09	20·76	3·8	219·88	18·71	6·5	231·12	24·30	4·3	207·82	16·77
200-300 . .	6·3	291·78	17·94	5·2	280·99	15·69	6·6	323·73	17·04	4·4	279·64	18·18
300-500 . .	6·7	519·43	10·48	5·3	416·03	14·69	7·4	469·75	12·01	5·3	475·52	16·77
Expenditure per consumption unit		51·26			63·47			46·69			68·65	

Income Range	CHANDIGARH		
	Family size	Average expenditure per family	Weightage
Rs.		Rs.	
150-200 . .	4·1	211·20	16·39
200-300 . .	4·4	266·72	26·94
300-500 . .	5·7	384·67	18·89
Expenditure per consumption unit		61·05	

NOTES.—1. Family size in the income ranges is taken from Table 4.2 given at pages 16-17 of Volume I of the Report on the Middle Class Family Living Survey, 1958-59.

2. The average expenditure per family, in the specified income ranges is taken from Statement 14 given in pages 90-92 of the above Report.

3. In arriving at the averages of the income groups weightage is given to each income group equal to the percentage of sampled families in that income group, in the different centres, as revealed in Statement 2, given in pages 52-55 of the above Report.

4. The average per capita expenditure, for the income ranges, is indicated as expenditure per consumption unit as per Lusk Co-efficient.

APPENDIX 'C'—*contd.*

Expenditure per Consumption unit of a middle class family in the centres where the Reserve Bank of India has its offices.

PART II—IN THE INCOME GROUP OF RS. 300-4750.

Income Range	BOMBAY			CALCUTTA			DELHI—NEW DELHI			MADRAS		
	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage
Rs.		Rs.			Rs.			Rs.			Rs.	
300-500 . .	5·1	404·57	26·41	6·0	396·85	21·41	5·6	402·13	24·67	5·6	408·48	18·44
500-750 . .	5·3	585·60	9·45	6·7	551·88	11·23	6·3	586·36	7·85	6·9	586·78	5·01
Expenditure per consumption unit		87·77			72·14			77·41			75·98	

Income Range	BANGALORE			KANPUR			HYDERABAD-SECUNDERABAD			AHMEDABAD		
	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage
Rs.		Rs.			Rs.			Rs.			Rs.	
300-500 . .	6·8	349·75	14·59	6·1	359·94	11·51	7·0	399·22	10·69	6·3	385·71	14·87
500-750 . .	6·1	536·63	6·23	6·3	575·21	2·80	7·7	565·34	4·86	6·0	495·90	3·37
Expenditure per consumption unit		61·56			65·49			62·49			65·02	

Income Range	NAGPUR			JAIPUR			GAUHATI			PATNA		
	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage
Rs.		Rs.			Rs.			Rs.			Rs.	
300-500 . .	5·7	411·29	15·76	6·3	441·82	12·06	6·1	410·28	13·71	7·0	444·50	12·29
500-750 . .	7·2	542·18	5·58	6·8	718·12	3·34	6·6	605·66	6·23	7·0	634·71	6·70
Expenditure per consumption unit		73·13			78·29			75·34			73·09	

Income Range	INDORE			CUTTACK-BHUBANESHWAR			SRINAGAR			TRIVANDRUM		
	Family sixe	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage	Family size	Average expenditure per family	Weightage
Rs.		Rs.			Rs.			Rs.			Rs.	
300-500 . .	6·7	519·43	10·48	5·3	416·03	14·69	7·4	469·75	12·01	5·3	475·52	16·77
500-750 . .	5·5	630·53	2·22	5·7	558·78	2·62	10·2	903·79	4·19	5·8	567·83	5·45
Expenditure per consumption unit		83·02			81·64			71·64			91·87	

Income Range	CHANDIGARH		
	Family size	Average expenditure per family	Weightage
Rs.		Rs.	
300-500 . .	5·7	384·67	18·89
500-750 . .	5·2	612·50	7·78
Expenditure per consumption unit		81·22	

NOTES.—1. Family size in the income ranges is taken from Table 4.2 given at pages 16-17 of Volume I of the Report on the Middle Class Family Living Survey, 1958-59.

2. The Average expenditure per family, in the specified income ranges is taken from statement 14 given in pages 90-92 of the above Report.

3. In arriving at the averages of the income groups weightage is given to each income group equal to the percentage of sampled families in that income group, in the different centres, as revealed in Statement 2, given in pages 52—55 of the above Report.

4. The average *per capita* expenditure, for the income ranges, is indicated as expenditure per consumption unit, as per Luskco-efficient.

APPENDIX 'D'

Statement showing the Emoluments of the Reserve Bank Clerk under this Award and that Received by him prior to this Award and the Emoluments of the Clerk in 'A' Class Commercial Banks in Area I under the Bipartite Settlement.

POSITION AS ON 1-1-1966.

	I						II					III					
Year	Emoluments of Clerks in R.B.I. prior to this Award						Clerical Scale under Bipartite Settlement					Scale of Emoluments as per this Award					
	Pay	Spl. Pay	D.A. @ 54% + 6% TADA	H.R.A.	F.A.	Total	Pay	D.A. @ 54% W.C.I.	H.R.A.	10% Bonus on Pay +D.A.	Total	Pay	Spl. Pay	D.A. @ 28·8% on pay upto Rs. 500 p.m. & 24% there-after	H.R.A. 10%; Mini-mum Rs. 30 & Maxi-mum Rs. 55	F.A. @ 5% from 6th year onwards	Total
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1	155	..	93·00	15·50	..	263·50	154	83·15	18·00	23·70	278·85	192	..	55·30	30·00	..	277·30
2	160	..	96·00	16·00	..	272·00	160	86·40	18·00	24·65	289·05	200	..	57·60	30·00	..	287·60
3	165	..	99·00	16·50	..	280·50	166	89·65	18·00	25·55	299·20	210	..	60·50	30·00	..	300·50
4	173	..	103·80	17·30	..	294·10	173	93·40	18·00	26·65	311·05	220	..	63·35	30·00	..	313·35
5	181	..	108·60	18·10	..	307·70	180	97·20	18·00	27·70	322·90	230	..	66·25	30·00	..	326·25
6	191	..	114·60	19·10	14·40	339·10	187	101·00	18·00	28·80	334·80	245	..	70·55	30·00	12·25	357·80
7	201	..	120·60	20·10	14·40	356·10	194	104·75	18·00	29·90	346·65	260	..	74·90	30·00	13·00	377·90
8	211	..	126·60	21·10	14·40	373·10	201	108·55	18·00	30·95	358·50	275	..	79·20	30·00	13·75	397·95
9	221	..	132·60	22·10	14·40	390·10	213	115·00	18·00	32·80	378·80	290	..	83·50	30·00	14·50	418·00
10	233	12	147·00	24·50	14·40	430·90	225	121·50	18·00	34·65	399·15	305	20	93·60	32·50	16·25	467·35
11	245	12	154·20	25·00	14·40	450·60	237	128·00	18·00	36·50	419·50	320	20	97·90	34·00	17·00	488·90
12	257	12	161·40	25·00	14·40	469·80	249	134·45	18·00	38·35	439·80	335	20	102·25	35·50	17·75	510·50
13	269	12	168·60	25·00	14·40	489·00	261	140·95	18·00	40·20	460·15	350	20	106·55	37·00	18·50	532·05
14	281	12	175·80	25·00	14·40	508·20	273	147·40	18·00	42·05	480·45	365	20	110·90	38·50	19·25	553·65
15	293	12	183·00	25·00	14·40	527·40	285	153·90	18·00	43·90	500·80	380	20	115·20	40·00	20·00	575·20

16	305	12	190·20	25·00	14·40	546·60	297	160·40	18·00	45·75	521·15	395	20	119·50	41·50	20·75	596·75
17	320	12	199·20	25·00	14·40	570·60	309	166·85	25·00	47·60	548·45	410	20	123·85	43·00	21·50	618·35
18	335	12	208·20	25·00	14·40	594·60	324	174·95	25·00	49·90	573·85	425	20	128·15	44·50	22·25	639·90
19	350	12	217·20	25·00	14·40	618·60	339	183·05	25·00	52·20	599·25	445	20	133·90	46·50	23·25	668·65
20	365	12	226·20	25·00	14·40	642·60	354	191·15	25·00	54·50	624·65	465	20	139·70	48·50	24·25	697·45
21	380	12	235·20	25·00	14·40	666·60	374	201·95	25·00	57·60	658·55	490	20	146·40	51·00	25·50	732·90
22	400	12	247·20	25·00	14·40	698·60	394	212·75	25·00	60·70	692·45	515	20	152·40	53·50	26·75	767·65
23	420	12	259·20	25·00	14·40	730·60	414	223·55	25·00	63·75	726·30	540	20	158·40	55·00	28·00	801·40
24	420	12	259·20	25·00	14·40	730·60	437	236·00	25·00	67·30	765·30	540	20	158·40	55·00	28·00	801·40
25	420	12	259·20	25·00	14·40	730·60	460	248·40	25·00	70·85	804·25	540	20	158·40	55·00	28·00	801·40

NOTES—1. Dearness Allowance, as per Desai Award formula, under the All-India Working Class Consumer Price Index (base-1949=100) on the average of such numbers for the quarter ending December 1965 with 6% temporary *Ad hoc* Dearness Allowance.

2. Pay and House Rent Allowance shown is that admissible in Bombay, Calcutta, New Delhi and Madras.

3. Average Family Allowance of Rs. 14·40 taken into account from 6th year of service (*vide* Ex. B-26).

4. Fractions rounded off to the nearest 5 paise.

NOTES—1. Dearness Allowance, as per Desai Award formula, under the All-India Working Class Consumer Price Index (base 1949=100) on the average of such numbers for the quarter ending December 1965.

2. House Rent Allowance is taken as admissible in "Special Places".

3. Fractions rounded off to the nearest 5 paise.

NOTES—1. Dearness Allowance linked to Consumer Price Index Numbers for Urban Non-Manual employees giving neutralisation at the rate of 90% upto the 'pay' of Rs. 500/- p.m. and at 75% for 'pay' above Rs. 500/- p.m. on the average of such numbers for the quarter ending December 1965, on slabs of every four points.

2. House Rent Allowance is admissible in "Higher Rent Centres".

3. Fractions rounded off to the nearest 5 paise.

[No. F. 55(43)/66-LRIV.]

O. P. TALWAR, Under Secy.

PRINTED IN INDIA BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1968